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FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 900 and 905

[No. 2003–09]

RIN 3069–AB25

Amendments to the Description of Organization and Functions Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is revising its Description of Organization and Functions regulation to reflect agency reorganizations that already have taken effect.

DATES: The final rule will become effective on June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Janice A. Kaye, Senior Attorney-Advisor, Office of General Counsel, by electronic mail at *kayej@fhfb.gov*, by telephone at 202/408–2505, by facsimile at 202/408–2580, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

Section (a)(1) of the Freedom of Information Act (FOIA) requires an agency to publish and update as necessary in the **Federal Register** ''for the guidance of the public'' certain basic information about the agency's structure and operations. *See* 5 U.S.C. 552(a)(1). More specifically, section (a)(1)(A) of the FOIA requires an agency to publish ''descriptions of its central and field organization and the established places at which, the employees * * * from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.'' 5 U.S.C. 552(a)(1)(A). Section (a)(1)(B) of the FOIA requires an agency to publish ''statements of the general course and method by which its functions are channeled and determined * * *'' 5 U.S.C. 552(a)(1).

In accordance with these FOIA requirements, the Finance Board first published a regulation describing its basic units of organization and their functions in December 1991. *See* 56 FR 67155 (Dec. 30, 1991). The only comprehensive update of this rule to date occurred in December 1996. *See* 61 FR 68129 (Dec. 27, 1996).[1] Since that time, the agency has undergone several reorganizations.[2] This final rule will update the description of the Finance Board's functions and general organization in part 905 to reflect the agency's current structure. It also will add new definitions of the terms ''Secretary to the Board'' and ''Executive Secretary'' in part 900.

II. Notice, Public Participation and Effective Date

The notice and publication requirements of the Administrative Procedure Act do not apply to this rule because the amendments made by the rule relate only to the organization of the agency. In addition, it is in the public interest to conform the regulations to reflect agency reorganizations that already have taken effect. For these reasons, the Finance Board is publishing the amendments in the form of a final rule and for good cause finds that the interim final rule should become effective on June 27, 2003. *See* 5 U.S.C. 553(b)(1)(A) and (d)(3).

III. Regulatory Flexibility Act

The Finance Board is adopting the amendments to parts 900 and 905 in the form of a final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. *See* 5 U.S.C. 601(2) and 603(a).

[1] The agency made minor changes in 2000, when the rule was moved from part 900 to part 905, and in 2002, when section 905.4 of the rule was amended to reflect changes to the Finance Board's statutory responsibilities made by the Gramm-Leach-Bliley Act. *See* 65 FR 8256 (Feb. 18, 2000) and 67 FR 12843 (Mar. 20, 2002).

[2] *See* Chairperson Order Nos. 1997–OR–4 (Feb. 25, 1997); 1997–OR–12 (July 25, 1997); 1999–OR–8 (Nov. 5, 1999); 2000–OR–7 (Oct. 1, 2000); 2000–OR–8 (Dec. 4, 2000); 2002–OR–2 (Aug. 8, 2002); and 2003–OR–XX (2003). Copies of these chairperson orders are available in the FOIA Reading Room on the Finance Board website at *www.fhfb.gov.*

IV. Paperwork Reduction Act

The final rule does not contain any collections of information under the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects

12 CFR Part 900

Credit, Federal home loan banks, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

12 CFR Part 905

Federal home loan banks, Organization and functions (Government agencies).

■ For the reasons stated in the preamble, the Finance Board amends 12 CFR parts 900 and 905 to read as follows:

PART 900—GENERAL DEFINITIONS APPLYING TO ALL FINANCE BOARD REGULATIONS

■ 1. The authority citation for part 900 continues to read as follows:

Authority: 12 U.S.C. 1422b(a).

■ 2. Revise § 900.1 by adding a new definition of the term ''Executive Secretary'' in alphabetical order and revising the definition of the term ''Secretary to the Board'' to read as follows:

§ 900.1 Basic terms relating to the Finance Board, the Bank System and related entities.

* * * * *

Executive Secretary means an employee within the Office of Management of the Finance Board who is responsible for records management.

* * * * *

Secretary to the Board means employees within the Office of General Counsel of the Finance Board who are responsible for issues concerning meetings of the Board of Directors.

PART 905—DESCRIPTION OF ORGANIZATION AND FUNCTIONS

■ 3. The authority citation for part 905 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1422b(a) and 1423.

■ 4. Revise § 905.2(b) to read as follows:

§ 905.2 General statement and statutory authority.

* * * * *

(b) The members of the Board of Directors individually are referred to as Directors. Other than the Office of Inspector General and the Office of General Counsel, the heads of the administrative units, called offices, also are called Directors. The head of the Office of Inspector General is called the Inspector General and the head of the Office of General Counsel is called the General Counsel.

* * * * *

Appendix A to Subpart A of Part 905—Federal Home Loan Banks

■ 5. Amend Appendix A to Subpart A of part 905 by:

■ a. Removing the words ''One Financial Center, 20th Floor, Boston, MA 02111'' and adding in their place the words ''111 Huntington Avenue, 24th Floor, Boston, MA 02199–7614'';

■ b. Removing the words ''200 Park Avenue, New York, NY 10166–4193 '' and adding in their place the words ''101 Park Avenue, New York, NY 10178–0599'';

■ c. Removing the words ''221 East Fourth Street, Suite 1000, Cincinnati, OH 45201–0598'' and adding in their place the words ''221 East Fourth Street, Suite 1000, Cincinnati, OH 45202'';

■ d. Removing the words ''5605 North MacArthur Boulevard, Irving, TX 75038'' and adding in their place the words ''8500 Freeport Parkway South, Suite 100, Irving, TX 75063–2547''; and

■ e. Removing the words ''Townsite Plaza Two, 120 East Sixth Street, Topeka, KS 66603'' and adding in their place the words ''One Security Benefit Place, Suite 100, Topeka, KS 66606–2444''.

■ 6. Amend Subpart B of part 905 by revising §§ 905.10 through 905.15, and removing §§ 905.16 through 905.19, to read as follows:

Subpart B—General Organization

§ 905.10 Board of Directors.

(a) *Board of Directors*—(1) *General.* The Bank Act vests management of the Finance Board in a five-member Board of Directors consisting of four members appointed by the President with the advice and consent of the Senate to serve staggered seven-year terms, and one *ex-officio* member, the Secretary of the U.S. Department of Housing and Urban Development. The four appointed directors must have backgrounds in housing finance or a demonstrated commitment to providing specialized housing credit and at least one appointed director must have a background with an organization with a two-year record of representing consumer or community interests on either banking services, credit needs, housing or financial consumer protections. Not more than three of the five directors may belong to the same political party.

(2) *Responsibilities.* The Board of Directors is responsible for setting agency policy and issuing resolutions, rules, regulations, orders and policies as necessary.

(b) *Chairperson*—(1) *General.* The President designates an appointed director as chairperson of the Board of Directors.

(2) *Responsibilities.* The responsibilities of the chairperson include:

(i) Presiding over the meetings of the Board of Directors;

(ii) Effecting the overall management, functioning and organization of the Finance Board;

(iii) Ensuring effective coordination and communication with the Congress and interest groups on legislative issues pertaining to the Finance Board, the Bank System, and the Financing Corporation; and

(iv) Disseminating information about the Finance Board to other government agencies, the public and the news media.

§ 905.11 Office of Inspector General.

(a) *General.* The Inspector General reports directly to the chairperson of the Board of Directors and is subject to, and operates under, the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. app. 3).

(b) *Responsibilities.* The responsibilities of the Office of Inspector General under the Inspector General Act include:

(1) Conducting and supervising audits and investigations relating to the programs and operations of the Finance Board;

(2) Providing leadership and coordination, and recommending policies for Finance Board activities designed to promote the economy, efficiency and effectiveness of programs and operations, and preventing and detecting fraud and abuse in programs and operations; and

(3) Providing a means for keeping the Board of Directors, agency managers and the Congress fully and currently informed regarding on-going investigations and, if needed, the necessity for and progress of corrective action.

§ 905.12 Office of Management.

(a) *General.* The Office of Management is the principal advisor to the chairperson and the Board of Directors on management and organizational policies and is responsible for the Finance Board's administrative management programs.

(b) *Responsibilities.* The responsibilities of the Office of Management include:

(1) Developing and managing agency policies and procedures governing employment and personnel action requirements, compensation and agency payroll requirements, travel, awards, insurance, retirement benefits and other employee benefits;

(2) Facilities and property management and supply requirements;

(3) Procurement and contracting programs;

(4) Agency financial management, budgeting and accounting;

(5) Records management; and

(6) Coordinating the design, programming, operation and maintenance of the Finance Board's technology and information systems.

§ 905.13 Office of Supervision.

(a) *General.* The Office of Supervision is responsible for conducting on-site examinations of the twelve Federal Home Loan Banks and the Office of Finance and conducting off-site monitoring and analysis. The Office of Supervision also is responsible for providing expert policy advice and analyzing and reporting on economic, housing finance, community investment and competitive environments in which the Bank System and its members operate.

(b) *Responsibilities.* The responsibilities of the Office of Supervision include:

(1) Conducting examinations, at least annually, of the Banks, the Office of Finance and the Financing Corporation and resolving outstanding examination issues;

(2) Monitoring Bank and Bank System market, credit and operational risks;

(3) Analyzing the financial performance of the Banks;

(4) Preparing the Monthly Survey of Rates and Terms of Conventional One-Family Nonfarm Mortgage Loans (MIRS) and determining the conforming loan limit for Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) purchases and guarantees;

(5) Analyzing the Banks' performance and policy issues arising under the Affordable Housing Program and the Community Investment Program; and

(6) Collecting and analyzing data on the housing and community and economic development activities of the Banks.

§ 905.14 Office of General Counsel.

(a) *General.* The General Counsel is the chief legal officer of the Finance Board and is responsible for advising the Board of Directors, the chairperson and other Finance Board officials on interpretations of law, regulation and policy.

(b) *Responsibilities.* The responsibilities of the Office of General Counsel include:

(1) Preparing all legal documents on behalf of the Finance Board such as opinions, regulations and memoranda of law;

(2) Representing the Finance Board in all administrative adjudicatory proceedings before the Board of Directors and in all other administrative matters involving the agency;

(3) Representing the Finance Board in judicial proceedings involving the agency's supervisory or regulatory authority over the Federal Home Loan Banks;

(4) Administering the Finance Board's Ethics, Freedom of Information Act, Privacy Act, Paperwork Reduction Act, and Government in the Sunshine Act programs; and

(5) Secretary to the Board functions.

Dated: June 19, 2003.

By the Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 03–16317 Filed 6–26–03; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–10–AD; Amendment 39–13213; AD 2003–13–12]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211–22B Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce plc (RR) RB211–22B series turbofan engines with intermediate pressure (IP) compressor stage 6 to 7 rotor shaft assembly part number (P/N) UL37094 installed. This amendment requires removal from service of IP compressor stage 6 to 7 rotor shaft assemblies P/N UL37094 before reaching newly reduced life limits. This amendment is prompted by the discovery of corrosion during inspection and analysis of IP compressor stage 6 to 7 rotor shaft assemblies returned from the field. The actions specified by this AD are intended to prevent corrosion-induced cracking of the IP compressor stage 6 to 7 rotor shaft assembly, resulting in an uncontained engine failure and damage to the airplane.

DATES: Effective August 1, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Rolls-Royce plc, P.O. Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242424; fax: 011–44–1332–245–418. 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: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to RR RB211–22B series turbofan engines with IP compressor stage 6 to 7 rotor shaft assembly P/N UL37094 installed was published in the **Federal Register** on December 2, 2002 (67 FR 71495). That action proposed to require removal from service of IP compressor stage 6 to 7 rotor shaft assemblies P/N UL37094 before reaching newly reduced life limits.

Comments

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

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, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–13–12 Rolls-Royce plc: Amendment 39–13213. Docket No. 2002–NE–10–AD.

Applicability: This airworthiness directive (AD) is applicable to Rolls-Royce (RR) RB211–22B series turbofan engines with intermediate pressure (IP) compressor stage 6 to 7 rotor shaft assembly part number (P/N) UL37094 installed. These engines are installed on, but not limited to Lockheed Martin L1011 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 corrosion-induced cracking of the IP compressor stage 6 to 7 rotor shaft assembly, resulting in an uncontained engine failure and damage to the airplane, do the following:

(a) For engines that have not incorporated RR service bulletin (SB) 72–8700, remove IP compressor stage 6 to 7 rotor shaft assemblies from service before accumulating 13,500 cycles-since-new (CSN).

(b) For engines that have incorporated RR SB 72–8700, remove IP compressor stage 6 to 7 rotor shaft assemblies from service before accumulating 12,980 CSN.

(c) After the effective date of this AD, do not install any IP compressor stage 6 to 7 rotor shaft assembly, P/N UL37094, that has accumulated the CSN specified in paragraph (a) or (b) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 aircraft to a location where the requirements of this AD can be done.

Effective Date

(f) This amendment becomes effective on August 1, 2003.

Issued in Burlington, Massachusetts, on June 23, 2003.

Francis A. Favara,

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

[FR Doc. 03–16283 Filed 6–26–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30374; Amdt. No. 3063]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 27, 2003. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2003.

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The Flight Inspection Area Office which originated the SIAP; or

4. The Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are

impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on June 20, 2003.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

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

Effective July 10, 2003

Trinidad, CO, Perry Stokes, NDB–A, Amdt 2A
Trinidad, CO, Perry Stokes, RNAV (GPS) RWY3, Orig
Trinidad, CO, Perry Stokes, RNAV (GPS)–B, Orig
Cedar Rapids, IA, The Eastern Iowa, VOR RWY 9, Amdt 16B
Cedar Rapids, IA, The Eastern Iowa, ILS RWY 9, Amdt 16
Cedar Rapids, IA, The Eastern Iowa, ILS RWY 27, Amdt 5
Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 9, Orig
Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 13, Orig
Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 27, Orig
Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 31, Orig
Cedar Rapids, IA, The Eastern Iowa, GPS RWY 13, Orig–B, CANCELLED
Cedar Rapids, IA, The Eastern Iowa, GPS RWY 31, Orig–F, CANCELLED
Batesville, MS, Panola County, RNAV (GPS) RWY 19, Orig
Batesville, MS, Panola County, RNAV (GPS) RWY 1, Orig
Jackson, MS, Jackson Intl, RNAV (GPS) RWY 16L, Orig
Jackson, MS, Jackson Intl, RNAV (GPS) RWY 16R, Orig
Jackson, MS, Jackson Intl, RNAV (GPS) RWY 34L, Orig
Jackson, MS, Jackson Intl, RNAV (GPS) RWY 34R, Orig
Jackson, MS, Jackson Intl, GPS RWY 16L, Orig, CANCELLED
Jackson, MS, Jackson Intl, GPS RWY 16R, Orig, CANCELLED
Jackson, MS, Jackson Intl, GPS RWY 34L, Orig, CANCELLED
Jackson, MS, Jackson Intl, GPS RWY 34R, Orig, CANCELLED
Jackson, MS, Jackson Intl, ILS RWY 34L, Amdt 5
Jackson, MS, Jackson Intl, LOC BC RWY 16R, Amdt 5
Jackson, MS, Jackson Intl, NDB RWY 16L, Amdt 5
Jackson, MS, Jackson Intl, ILS RWY 16L, Amdt 7D
Cambridge, NE, Cambridge Muni, NDB RWY 14, Amdt 3B
Cambridge, NE, Cambridge Muni, NDB RWY 32, Amdt 4
Cambridge, NE, Cambridge Muni, RNAV (GPS) RWY 14, Orig
Cambridge, NE, Cambridge Muni, RNAV (GPS) RWY 32, Orig
Cambridge, NE, Cambridge Muni, GPS RWY 32, Orig, CANCELLED

Effective September 4, 2003

Almyra, AR, Almyra Muni, VOR/DME–A, Amdt 5
Almyra, AR, Almyra Muni, RNAV (GPS) RWY 35, Orig
Almyra, AR, Almyra Muni, GPS RWY 35, Orig, CANCELLED
Griffin, GA, Griffin-Spalding County, VOR/DME RWY 14, Amdt 4B, CANCELLED
Hampton, GA, Clayton County-Tara Field, VOR/DME–A, Orig–A, CANCELLED
Le Mars, IA, Le Mars Muni, NDB RWY 18, Amdt 10, CANCELLED
Norton, KS, Norton Muni, NDB RWY 16, Amdt 1
Norton, KS, Norton Muni, NDB RWY 34, Amdt 1
Norton, KS, Norton Muni, RNAV (GPS) RWY 16, Orig
Norton, KS, Norton Muni, RNAV (GPS) RWY 34, Orig
Brookfield, MO, North Central Missouri Regional, RNAV (GPS) RWY 18, Orig
Brookfield, MO, North Central Missouri Regional, RNAV (GPS) RWY 36, Orig
Chickasha, OK, Chickasha Muni, VOR/DME–A, Amdt 1
Chickasha, OK, Chickasha Muni, NDB RWY 17, Amdt 1
Chickasha, OK, Chickasha Muni, VOR/DME RNAV RWY 35, Amdt 2
Chickasha, OK, Chickasha Muni, RNAV (GPS) RWY 17, Orig
Chickasha, OK, Chickasha Muni, RNAV (GPS) RWY 35, Orig
Chickasha, OK, Chickasha Muni, GPS RWY 17, Orig–A, CANCELLED
Chickasha, OK, Chickasha Muni, GPS RWY 35, Orig–A, CANCELLED
Cushing, OK, Cushing Muni, NDB RWY 36, Amdt 4
Cushing, OK, Cushing Muni, RNAV (GPS) RWY 36, Orig
Miami, OK, Miami Muni, VOR/DME–A, Amdt 2
Miami, OK, Miami Muni, RNAV (GPS) RWY 17, Orig
Miami, OK, Miami Muni, GPS RWY 17, Orig–A, CANCELLED
Crossville, TN, Crossville Memorial-Whitson Field, ILS RWY 26, Amdt 12
New Braunfels, TX, New Braunfels Muni, RNAV (GPS) RWY 35, Orig
New Braunfels, TX, New Braunfels Muni, GPS RWY 35, Amdt 1, CANCELLED
Louisa, VA, Louisa County/Freeman Field, LOC RWY 27, Amdt 1

The FAA published the following procedures in Docket No. 30372; Amdt. No. 3061 to Part 97 of the Federal Aviation Regulations (Vol. 68, FR No. 115, Page 35539; dated Monday, June 16, 2003) under sections 97.23 and 97.33 as rescinded. The following procedures are hereby reinstated and will be published effective July 10, 2003:

Window Rock, AZ, Window Rock, VOR/DME–A, Orig–C
Window Rock, AZ, Window Rock, RNAV (GPS)–B, Orig
Window Rock, AZ, Window Rock, RNAV (GPS) RWY 2, Orig
Window Rock, AZ, Window Rock, VOR/DME RNAV OR GPS RWY 2, Amdt 1, CANCELLED

[FR Doc. 03–16225 Filed 6–26–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30375; Amdt. No. 3064]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: This rule is effective June 27, 2003. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2003.

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

For Examination—

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notice to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on June 20, 2003.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard

Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§ 97.23, § 97.25, § 97.27, § 97.29, § 97.31, § 97.33, § 97.35 [Amended]

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

Effective Upon Publication

FDC Date	State	City	Airport	FDC No.	Subject
05/19/03	NM	Truth or Consequences.	Truth or Consequences Muni	3/3778	GPS Rwy 31, Orig–A.
06/04/03	TX	Houston	George Bush Intercontinental Arpt/Houston.	3/4292	RNAV (GPS) Rwy 26, Orig–C.
06/05/03	NM	Albuquerque	Double Eagle II	3/4353	ILS Rwy 22, Amdt 2A.
06/06/03	AK	Kenai	Kenai Muni	3/4374	ILS Rwy 19,R, Amdt 1.
06/06/03	NC	Fayetteville	Fayetteville Regional/Grannis Field.	3/4377	LOC BC Rwy 22, Amdt 6.
06/06/03	LA	New Orleans	Louis Armstrong New Orleans Intl.	3/4436	ILS Rwy 1, Amdt 16B.
06/09/03	GA	Americus	Souther Field	3/4421	NDB Rwy 23, Amdt 3.
06/09/03	GA	Americus	Souther Field	3/4422	LOC Rwy 23, Amdt 3.
06/09/03	NE	Norfolk	Karl Stefan Memorial	3/4486 (REPLACES 3/4263)	RNAV (GPS) Rwy 13, Orig.
06/10/03	LA	New Iberia	Acadiana Regional	3/4543	VOR/DME Rwy 34, Amdt 1B.
06/11/03	DC	Washington	Washington Dulles Intl	3/4539	VOR/DME or TACAN Rwy 12, Amdt 8A.
06/11/03	DC	Washington	Washington Dulles Intl	3/4540	NDR Rwy 1R, Amdt 17.
06/12/03	NM	Belen	Alexander Muni	3/4604	VOR/DME–A, Amdt 1.
06/12/03	LA	Marksville	Marksville Muni	3/4625	NDB Rwy 4, Amdt 1A.
06/16/03	IN	Indianapolis	Indianapolis Intl	3/4652	Radar–1, Amdt 31.
06/16/03	NC	Greensboro	Piedmont Triad Intl	3/4656	RNAV (GPS) Rwy 5, Orig.
06/16/03	NC	Greensboro	Piedmont Triad Intl	3/4657	RNAV (GPS) Rwy 14, Orig.
06/17/03	CA	Blythe	Blythe	3/4732	VOR/DME–A, Orig.
06/18/03	SC	Myrtle Beach	Myrtle Beach Intl	3/4724	ILS Rwy 18, Amdt 1D.
06/18/03	SC	Myrtle Beach	Myrtle Beach Intl	3/4725	RNAV (GPS) Rwy 18, Amdt 1A.
06/18/03	SC	Myrtle Beach	Myrtle Beach Intl	3/4726	Radar–1, Amdt 1A.

[FR Doc. 03–16224 Filed 6–26–03; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

AGENCY: Federal Trade Commission

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (Commission) announces that the current ranges of comparability required by the Appliance Labeling Rule (Rule) for room air conditioners, storage-type water heaters, gas-fired instantaneous water heaters, heat pump water heaters, furnaces, boilers, and pool heaters will remain in effect until further notice.

EFFECTIVE DATE: September 25, 2003.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202–326–2889).

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975.[1] The Rule covers several categories of major household appliances and other consumer products including water heaters (this category includes storage-type water heaters, gas-fired instantaneous water heaters, and heat pump water heaters), room air conditioners, furnaces (this category includes boilers), and central air conditioners (this category includes heat pumps).

The Rule requires manufacturers of all covered appliances and pool heaters to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an ''EnergyGuide'' label and in catalogs. It also requires manufacturers of furnaces, central air conditioners, and heat pumps either to provide fact sheets showing additional cost information, or to be listed in an industry directory showing the cost information for their products. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a ''range of comparability.'' This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by

[1] 42 U.S.C. 6294. The statute also requires the Department of Energy (DOE) to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

specified dates for each product type.[2] These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information consistent with these changes, under section 305.10 of the Rule, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior ranges remain in effect for the next year.

Analysis of 2003 Data Submissions

Manufacturers have submitted data for room air conditioners, water heaters (including storage-type, gas-fired instantaneous, and heat pump water heaters), furnaces, boilers, and pool heaters. The ranges of comparability for these products have not changed significantly enough to warrant a change to the current ranges. Therefore, the current ranges for these products will remain in effect until further notice.

This means that manufacturers of storage-type water heaters, furnaces, and boilers must continue to use the ranges that were published on September 23, 1994 (59 FR 48796). These manufacturers must continue to base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for these products on the 1994 Representative Average Unit Costs of Energy for electricity (8.41 cents per kilo Watt-hour), natural gas (60.4 cents per therm), propane (98 cents per gallon), and/or heating oil ($1.05 per gallon) that were published by DOE on December 29, 1993 (58 FR 68901), and by the Commission on February 8, 1994 (59 FR 5699).

Manufacturers of gas-fired instantaneous water heaters must continue to use the ranges of comparability that were published on December 20, 1999 (64 FR 71019). They must continue to base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for these products on the 1999 Representative Average Unit Costs of Energy for natural gas (68.8 cents per therm) and propane (77 cents per gallon) that were published by DOE on January 5, 1999 (64 FR 487) and by the Commission on February 17, 1999 (64 FR 7783).

Manufacturers of heat pump water heaters must continue to use the ranges that were published on June 24, 2002 (67 FR 42478). Manufacturers of heat pump water heaters must continue to base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for these products on the 2002 Representative Average Unit Costs of Energy for electricity (8.28 cents per kilo Watt-hour) that were published by DOE on April 24, 2002 (67 FR 20104), and by the Commission on June 7, 2002 (67 FR 39269). Manufacturers of pool heaters must continue to use the ranges that were published on August 21, 1995 (60 FR 43367).

Manufacturers of room air conditioners must continue to use the corrected ranges for room air conditioners that were published on November 13, 1995 (60 FR 56945, at 56949). Manufacturers of room air conditioners must continue to base the disclosures of estimated annual operating cost required at the bottom of EnergyGuides for these products on the 1995 Representative Average Unit Costs of Energy for electricity (8.67 cents per kilo Watt-hour), natural gas (63 cents per therm), propane (98.5 cents per gallon), and/or heating oil ($1.008 per gallon) that were published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9295).

For up-to-date tables showing current range and cost information for all covered appliances, see the Commission's Appliance Labeling Rule Web page at *http://www..ftc.gov/appliances.*

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

■ The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–16301 Filed 6–26–03; 8:45 am]

BILLING CODE 6750–01–M

[2] Reports for room air conditioners, heat pump water heaters, storage-type water heaters, gas-fired instantaneous water heaters, furnaces, boilers, and pool heaters are due May 1.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1502

Confirmation of Effective Date of Rules Declaring Metal-Cored Candlewicks Containing Lead and Candles With Such Wicks To Be Hazardous Substances and Banning Them

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; confirmation of effective date.

SUMMARY: In the **Federal Register** of April 18, 2003, 68 FR 19142–8, the Consumer Product Safety Commission (the Commission) published final regulations declaring that metal-cored candlewicks containing more than 0.06 percent lead by weight in the metal and candles with such wicks are hazardous substances and banning such wicks and candles with such wicks. No objections were filed and no hearing was requested on the final regulations during the thirty day period commencing on the day after their publication in the **Federal Register**. Therefore, the Commission confirms that the final regulations become effective on October 15, 2003.

DATES: The final regulations at 68 FR 19142–8, April 18, 2003, become effective on October 15, 2003.

ADDRESSES: Copies of the final regulations declaring that metal-cored candlewicks containing more than 0.06 percent lead by weight in the metal and candles with such wicks are hazardous substances and banning such wicks and candles with such wicks are available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland. The regulations are also available on the CPSC Web site at *www.cpsc.gov.*

FOR FURTHER INFORMATION CONTACT: For further information on the final regulations declaring that metal-cored candlewicks containing more than 0.06 percent lead by weight in the metal and candles with such wicks are hazardous substances and banning such wicks and candles with such wicks, contact Geri Smith, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7529; e-mail *gsmith@cpsc.gov.*

SUPPLEMENTARY INFORMATION: Procedures established by section 701(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 371(e), govern the Commission action to issue the final regulations declaring that metal-cored candlewicks containing more than 0.06

percent lead by weight in the metal and candles with such wicks are hazardous substances and banning such wicks and candles with such wicks. 15 U.S.C. 1262(a)(2) and 1261(q)(2). These procedures provide that once the Commission issues a final rule, persons who would be adversely affected by the rule have a period of thirty (30) days in which to file objections and request a public hearing on those objections. 21 U.S.C. 371(e)(2). If no objections are filed and no hearing is requested, the regulations become effective on the date specified in the regulations as issued. 21 U.S.C. 371(e)(1); 16 CFR 1502.14(a). If this is the case, after the thirty day period has run, the Commission publishes a notice in the **Federal Register** confirming the effective date. 16 CFR 1502.14(b). Accordingly, since no objections were filed and no hearing was requested during the thirty day period, the Commission confirms that the effective date of the final regulations published on April 15, 2003 at 68 FR 19147–8 declaring that metal-cored candlewicks containing more than 0.06 percent lead by weight in the metal and candles with such wicks are hazardous substances and banning such wicks and candles with such wicks is October 15, 2003.

Dated: June 20, 2003.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 03–16243 Filed 6–26–03; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9063]

RIN 1545–BB99

Distributions of Interests in a Loss Corporation From Qualified Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 382 of the Internal Revenue Code of 1986. The temporary regulations affect loss corporations and provide guidance on whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective June 27, 2003.

Applicability Date: For dates of applicability *see* § 1.382–10T(a)(4).

FOR FURTHER INFORMATION CONTACT: Martin Huck (202) 622–7750 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

Section 382 in General

Section 382 limits the amount of taxable income that may be offset by certain loss carryovers and recognized built-in losses following an ownership change of a loss corporation. Section 382(g) defines an ownership change as a change in the percentage of ownership of the loss corporation's stock owned by the 5-percent shareholders of more than 50 percentage points (by value) over a 3-year period. Congress intended the section 382 limitation to apply when new shareholders that did not bear the economic burden of the losses acquire a controlling interest in the loss corporation. *See* H.R. Rep. No. 99–426, 1986–3 C.B. (Vol. 2) 256; S. Rep. No. 99–313 1986–3 C.B. (Vol. 3) 232.

Constructive Ownership Rules

Section 382(l)(3) provides that in determining the ownership of stock of a loss corporation, the constructive ownership rules of section 318 apply, with certain exceptions. Section 382 (by reference to the rules of section 318) and the regulations thereunder generally attribute stock owned by an entity such as a corporation or a partnership to its shareholders or partners, respectively. Therefore, if a corporation makes a pro rata distribution of an interest in a loss corporation to its shareholders, the distribution does not result in an acquisition of that interest by the shareholders that must be taken into account in determining whether the loss corporation has an ownership change. On the other hand, section 382 and the regulations thereunder do not attribute stock owned by a qualified trust described in section 401(a) (qualified trust) to participants in the qualified plan under which the trust is established. In particular, although section 318(a)(2) provides for attribution of stock owned by a trust to its beneficiaries, it excepts qualified trusts from the application of this rule. Moreover, § 1.382–2T(h)(2)(iii) provides that a qualified trust is treated as an individual unrelated to any other direct or indirect owner of the loss corporation. Accordingly, the participants under a qualified plan are not treated as owning any interest in a loss corporation owned by the trust. Therefore, if a qualified trust owns directly 5 percent or more of a loss corporation, a distribution of an interest in the loss corporation from the trust to plan participants (or their beneficiaries) results in an acquisition of that interest by the participants (or their beneficiaries) that must be taken into account in determining whether the loss corporation has an ownership change.

Explanation of Provisions

In General

Treasury and the IRS are concerned that, under the current rules, a distribution of an ownership interest in an entity from a qualified trust may cause an ownership change, even though that event may not change the ultimate beneficial ownership of the loss corporation. To prevent this result, these temporary regulations set forth new rules.

Distributions From Qualified Trusts

The temporary regulations provide that if a qualified trust distributes an ownership interest in an entity, then for testing dates on or after the date of the distribution, the distributed ownership interest will be treated as having been acquired by the distributee on the date and in the manner acquired by the trust. Furthermore, the distribution itself does not give rise to a testing date. Because the rule applies only for testing dates on or after the date of the distribution, a distribution does not retroactively cause (or undo) an owner shift that would (or would not) have occurred if the distributee had actually acquired the ownership interest on the date and in the manner acquired by the qualified trust.

To determine which ownership interests have been distributed, the loss corporation must account for all dispositions of ownership interests by the qualified trust either by specifically identifying the ownership interest disposed of, or by using a first-in, first-out (FIFO) method. The loss corporation, however, must apply the same method to all dispositions by the qualified trust.

Effective Dates

The temporary regulations apply to all distributions from qualified trusts after June 27, 2003. The loss corporation may choose to apply the rules retroactively in one of two ways: (1) To all distributions from qualified trusts on or before June 27, 2003 and within a testing period that includes June 27,

2003; or (2) to all distributions from qualified trusts after December 31, 1986. Retroactive application will affect a taxpayer's items of income, gain, deduction, or loss only in open years.

Request for Comments and Future Regulations

Treasury and the IRS request comments regarding whether there are other events that, under current rules, are taken into account in determining whether an ownership change occurs, but do not cause the ultimate beneficial ownership of the loss corporation to change. In this regard, Treasury and the IRS have been studying the constructive ownership rules as they apply to members of a family, and the effect of those rules on the determination of whether a loss corporation has an ownership change. Subject to certain exceptions, § 1.382–2T(h)(6)(ii) treats an individual, his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), his children, his grandchildren, and his parents as one individual, and aggregates shares owned by those persons for purposes of determining whether a loss corporation has an ownership change. Treasury and the IRS are concerned that, under the current rules, a change in the composition of a family may be interpreted to cause an ownership change. Treasury and the IRS believe that, as in the case of a distribution from a qualified trust, when a change in family composition does not change the ultimate beneficial ownership of the loss corporation, it should not be taken into account in determining whether a loss corporation has an ownership change. For example, a change in family composition that results from a marriage of two individuals does not change the ultimate beneficial ownership of the loss corporation and, therefore, should not cause an ownership change. Accordingly, Treasury and the IRS intend to promulgate regulations to address changes in family composition that result from marriage, birth, adoption, divorce, death, or other events in which an individual joins or leaves a family. It is anticipated that these regulations will be electively retroactive on terms similar to those applicable to the rules regarding distributions from a qualified trust.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. These temporary regulations provide relief to qualifying loss corporations that might be affected by an unintended consequence of the operation of the statute. The regulations relieve a restriction on the ability of qualified trusts that distribute interests in a loss corporation without causing an ownership change. In addition, it is necessary to provide immediate guidance to taxpayers. Accordingly, good cause is found for dispensing with prior notice and comment pursuant to 5 U.S.C. 553(b) and for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d). For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), see the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**. The IRS and Treasury request comments from small entities that believe they might be adversely affected by these regulations. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is Martin Huck, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

§ 1.382–1 Table of contents.

* * * * *

PART 1—INCOME TAXES

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

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

Section 1.382–10T is also issued under 26 U.S.C. 382(m). * * *

■ **Par. 2.** Section 1.382–1 is amended by adding an entry in numerical order to read as follows:

§ 1.382–10T Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).

* * * * *

■ **Par. 3.** Section 1.382.10T is added to read as follows:

§ 1.382–01 Special rules of determining time and maner of acquisition of an interest in a loss corporation (temporary).

(a) *Distributions from qualified trusts*—(1) *In general.* For purposes of § 1.382–2T, if a qualified trust described in section 401(a) (qualified trust) distributes an ownership interest in an entity (as defined in § 1.382–3(a)(1)), then for testing dates on or after the date of the distribution, the distributed ownership interest is treated as having been acquired by the distributee on the date and in the manner acquired by the trust and not as having been acquired or disposed of by the trust. The distribution does not cause the day of the distribution to be a testing date.

(2) *Accounting for dispositions*—(i) *General rule.* For purposes of this paragraph (a), in order to determine which ownership interest in an entity is distributed from a qualified trust, a loss corporation must either specifically identify the ownership interests that are the subject of all dispositions by the qualified trust of ownership interests in an entity, or apply the first-in, first-out (FIFO) method to all such dispositions.

(ii) *Special rules.* For purposes of this paragraph (a)(2):

(A) The FIFO method must be applied on a class-by-class basis; and

(B) The term dispositions includes distributions, sales, and other transfers.

(3) *Examples.* The following examples illustrate the principles of this paragraph (a). For purposes of these examples, unless otherwise stated, the nomenclature and assumptions of the examples in § 1.382–2T(b) apply, all corporations file separate income tax returns on a calendar year basis, the only 5-percent shareholder of a loss corporation is a public group, and the facts set forth the only acquisitions of stock by any participants in a qualified plan and the only owner shifts with respect to the loss corporation during the testing period. The examples are as follows:

Example 1— (i) *Facts.* In 1994, E, a qualified trust established under Plan F, acquires 10 percent of L stock. A is a participant in Plan F. On January 1, 2002, A acquires 4 percent of L stock, and B, who is not a participant or a beneficiary of a participant in Plan F, acquires 5 percent of L stock. On January 1, 2004, E distributes 2 percent of L stock to A. On July 1, 2004, A acquires 1 percent of L stock.

(ii) *Analysis.* January 1, 2002, is a testing date because B's acquisition of 5 percent of L stock causes an increase in the percentage ownership of B, a 5-percent shareholder. As of the close of that testing date, A is treated as owning only 4 percent of L stock. Therefore, A is treated as a member of the public group of L. In addition, E is treated as owning 10 percent of L stock that it acquired in 1994.

(iii) As a result of the application of paragraph (a)(1) of this section to E's distribution of 2 percent of L stock to A on January 1, 2004, for testing dates on and after January 1, 2004, A is treated as having acquired that 2 percent interest in L in 1994, and E is treated as having acquired only 8 percent of L stock in 1994. Because there are no owner shifts on January 1, 2004, that date is not a testing date.

(iv) July 1, 2004, is a testing date because on that date A, a 5-percent shareholder, acquires 1 percent of L stock. As of the close of that testing date, A's percentage of ownership of L stock is 7 percent, and A's lowest percentage of ownership of L stock at any time within the testing period is 2 percent (deemed acquired in 1994), representing an increase of 5 percentage points. In addition, as of the close of July 1, 2004, B's percentage of ownership of L stock is 5 percent, and B's lowest percentage of ownership of L stock at any time within the testing period is 0 percent, representing an increase of 5 percentage points. Thus, on July 1, 2004, L must take into account an increase of 10 (5 + 5) percentage points in determining whether it has an ownership change.

Example 2— (i) *Facts.* E is a qualified trust established under Plan F. L, a publicly traded corporation, has 100x shares of stock outstanding. As of January 1, 2006, C owns 5x shares of L stock and is not a participant or beneficiary of a participant in Plan F. At all times prior to January 1, 2006, E owns no L stock. On January 1, 2006, E acquires 10x shares of L stock from members of the public group of L. On December 1, 2007, E distributes 5x shares of L stock to some of the participants in Plan F. No one participant acquires all 5x shares as a result of the distribution. On February 1, 2008, C purchases 1x shares of L stock from the public group of L.

(ii) *Analysis.* Because E's acquisition of 10x shares of L stock on January 1, 2006, is an owner shift, that date is a testing date. As of the close of that date, E's percentage of stock ownership in L has increased by 10 percentage points.

(iii) As a result of the application of paragraph (a)(1) of this section to E's distribution of 5x shares of L stock to some Plan F participants on December 1, 2007, for testing dates on and after December 1, 2007, those distributees are treated as having acquired those shares of stock on January 1, 2006, from members of the public group of L, and E is not treated as having acquired those shares on that date. E's distribution of the 5x shares is not an owner shift. Therefore, December 1, 2007, is not a testing date.

(iv) February 1, 2008, is a testing date because on that date an owner shift results from C's purchase of 1x shares of L stock. As of the close of that testing date, the distributees of 5x shares of L stock are treated as members of the public group of L having acquired 5x shares of L stock from other members of the public group of L on January 1, 2006. Because those acquisitions are not by 5-percent shareholders, L does not take them into account. In addition, as of the close of February 1, 2008, E's percentage of stock ownership in L is 5 percent, and E's lowest percentage of stock ownership in L at any time within the testing period is 0 percent, representing an increase of 5 percentage points. In addition, as of the close of February 1, 2008, C's percentage of stock ownership in L is 6 percent, and C's lowest percentage of stock ownership in L at any time within the testing period is 5 percent, representing an increase of 1 percentage point. Therefore, on February 1, 2008, L must take into account an increase of 6 (5 + 1) percentage points in determining whether it has an ownership change.

(4) *Effective date*—(i) *General rule.* This section applies to all distributions after June 27, 2003.

(ii) *Retroactive application.* Notwithstanding paragraph (a)(4)(i) of this section, a loss corporation may apply the rules of this section retroactively to:

(A) All distributions on or before June 27, 2003 that are within a testing period that includes June 27, 2003; or

(B) All distributions after December 31, 1986.

(b) [Reserved]

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 18, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–16229 Filed 6–26–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–097–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are announcing our approval of amendments to the West Virginia surface coal mining regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendments we are approving concern various changes and additions to the Code of State Regulations as contained in State House Bill 4163 and Senate Bill 2002.

EFFECTIVE DATE: June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158; Internet address: *chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated April 9, 2002 (Administrative Record Number WV–1296), the West Virginia Department of Environmental Protection (WVDEP) sent us a proposed amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). The proposed amendment consists of several changes to the Code of State Regulations (CSR) at 38–2, and the addition of new CSR 38–4, the Coal Related Dam Safety Rules, as contained in House Bill 4163.

We announced the receipt and provided an opportunity to comment on the amendment in the June 6, 2002, **Federal Register** (67 FR 38919) (Administrative Record Number WV–1311). The comment period closed on July 8, 2002. We received comments from the U.S. Department of Labor's Mine Safety and Health Administration.

By letter and electronic mail dated June 19, 2002, WVDEP sent us additional amendments to its program concerning changes to CSR 38–2 that are contained in Senate Bill 2002 (Administrative Record Number WV–1316). Senate Bill 2002 was signed by

the Governor of West Virginia on June 21, 2002; it authorized WVDEP to promulgate revisions to its Surface Mining and Reclamation Regulations.

We announced receipt of the proposed amendments in the August 16, 2002, **Federal Register** (67 FR 53542) (Administrative Record Number WV–1322). In that notice, we also identified proposed amendments that we inadvertently omitted identifying in the June 6, 2002, **Federal Register** notice, including the new Coal Related Dam Safety Rules at CSR 38–4. The comment period closed on September 16, 2002. We received comments from the U.S. Department of Labor's Mine Safety and Health Administration, the U.S. Department of the Interior's Fish and Wildlife Service, and the U.S. Environmental Protection Agency.

These two submissions include amendments to CSR 38–2 that are intended to address required program amendments codified in the Federal regulations at 30 CFR 948.16 (rrrr), (ssss), (tttt), (uuuu), (vvvv), (xxxx), (yyyy), (zzzz), (bbbbb), (ccccc), (ddddd), (eeeee), (ggggg), (hhhhh), (mmmmm), (nnnnn), and (qqqqq).

Revisions to the State's contemporaneous reclamation requirements are contained in the two amendment submittals discussed above. In order to expedite our review of the State's amendments to its contemporaneous reclamation provisions, we separated those amendments from the two amendment submittals discussed above. We published our findings and decision on the State's contemporaneous reclamation amendments in the December 3, 2002, **Federal Register** (67 FR 71832) (Administrative Record Number WV–1344).

The proposed new Coal Related Dam Safety Rules at CSR 38–4 are intended to address, in part, a letter we sent to the State on July 22, 1997 (Administrative Record Number WV–1071), in accordance with the Federal regulations at 30 CFR 732.17(d). The Federal regulation 30 CFR 732.17(d) provides that OSM must notify the State of all changes in SMCRA and the Federal regulations that will require an amendment to the State program. Such letters sent by us are often referred to as ''732 letters.'' We separated the State's new Coal Related Dam Safety Rules at CSR 38–4 from the amendment submittals discussed above. We will render a final decision on those new rules at a later date as part of a program amendment that addresses the State's responses to 732 letters. For more information on the State's responses to 732 letters, see the proposed rule notice in the January 12, 2001, **Federal Register** (66 FR 2866).

We also removed from these amendments the State's proposed rules at CSR 38–2–25 concerning the exemption for coal extraction incidental to extraction of other minerals. The proposed rules at CSR 38–2–25 were submitted in response to a 732 letter dated February 7, 1990 (Administrative Record Number WV–827), concerning exemption for coal extraction incidental to the extraction of other minerals removed for purposes of commercial sale (30 CFR part 702). We separated the proposed rules at CSR 38–2–25 from the amendment submittals discussed above, and we will publish our findings at a later date as part of the program amendment that addresses the State's responses to 732 letters. For more information on the State's responses to 732 letters, see the proposed rule notice in the January 12, 2001, **Federal Register** (66 FR 2866).

In addition, the proposed rules at CSR 38–2–3.12.a.1–2 regarding Subsidence Control Plans; 38–2–5.4.b.8 regarding Excavated Sediment Control Structures; 38–2–5.4.d.3 regarding Coal Processing Waste Dams; and 38–2–16.2.c.4 regarding Bonding for Subsidence Damage are identical to what we previously considered from the submitted West Virginia House Bill 2663. Each of those amendments was approved in our decision on WV–088, which was published in the **Federal Register** on May 1, 2002 (67 FR 21904) (Administrative Record Number WV–1300). Therefore, we will not reconsider those provisions here.

III. OSM's Findings

As discussed under ''Submission of the Amendment,'' the State's submittal includes proposed amendments that would address required program amendments codified at 30 CFR 948.16. For the reasons discussed below, we are approving the proposed amendments as submitted on April 9, 2002, and June 19, 2002. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes and are approved here without discussion.

CSR 38–2 Surface Mining Reclamation Regulations

1. 38–2–2.31.b.1. Definition of Forestry

The definition of ''forestry'' has been amended by adding the words ''for the production of wood or wood products.'' In its submittal of this amendment, WVDEP stated that it is intended to satisfy the required program amendment identified in the August 18, 2000, **Federal Register** (65 FR 50409, 50411–12). The required program amendment codified at 30 CFR 948.16(rrrr) provides that CSR 38–2–2.31.b must be amended to define forestry to mean a postmining land use used or managed for the long term production of wood or wood products in accordance with the Federal definition of forestry under the definition of land use at 30 CFR 701.5. We find this change to be consistent with and no less effective than the Federal definition of ''forestry'' at paragraph (d) under the definition of ''land use'' at 30 CFR 701.5 and it can be approved. Therefore, the required program amendment codified at 30 CFR 948.16(rrrr) is satisfied and can be removed.

2. 38–2–2.43. Definition of Director

This definition was deleted. The definition was rendered obsolete due to the State's changing the Division of Environmental Protection to the Department of Environmental Protection and changing the title to secretary as defined at subsection 2.108. We find that the deletion does not render the West Virginia program less effective than the Federal regulations and can be approved.

3. 38–2–2.108. Definition of Secretary

This definition is new, and defines ''Secretary'' to mean the Secretary of the Department of Environmental Protection or the Secretary's authorized agent. We find that the definition does not render the West Virginia program less effective than the Federal regulations and can be approved.

4. 38–2–3.1.i.2. Permit Application Requirements and Contents

This provision is amended by deleting the word ''performance'' before the word ''bond.'' As amended, the provision requires an applicant to identify whether it has ''[f]orfeited a bond or similar security in lieu of bond.'' In its submittal of this amendment, WVDEP stated that the deletion of the word ''performance'' was intended to render the definition consistent with the Code of West Virginia (W. Va. Code). W. Va. Code 22–3–11(a), concerning bonding requirements, provides that a ''penal bond'' shall be furnished by the applicant and conditioned upon the operator faithfully performing all of the requirements of W. Va. Code 22–3 and of the permit. OSM had approved the statutory provision previously on October 4, 1995 (60 FR 51901). We find that the deletion of the term ''performance'' in its regulations does not render the West Virginia program

less effective than the Federal bonding requirements at 30 CFR 800.11 concerning the requirement to file a bond and can be approved. In a similar fashion, the State has deleted the word ''performance'' at 38–2–3.25.a.4, 3.30.d.8, 3.32.e, 5.4.e.2, 8.2.b.3, 10.6.b.3, 11.2.b, 11.4.a.1, 11.4.a.4, and 22.7.a. For the reason stated above, we find that the deletion of the term ''performance'' does not render the West Virginia program less effective than the Federal bonding requirements at 30 CFR 800.11 concerning the requirement to file a bond and can be approved.

5. 38–2–3.25.a.4. Reinstatement of Permits

This provision is amended by adding the word ''reinstatement'' following the word ''transfer'' that appears in the second sentence. Also, the third sentence is amended by adding the following words to the beginning of the sentence: ''[e]xcept for reinstatement.'' The amendments are intended to clarify that CSR 38–2–3.25.a.4 also applies to the reinstatement of permits and in no event can a reinstated permit be approved in advance of the close of the public comment period. This amendment satisfies the required program amendment codified at 30 CFR 948.16(ssss). Therefore, we find that this amendment can be approved and the required program amendment codified at 30 CFR 948.16(ssss) can be removed.

6. 38–2–7.4.a.1. Commercial Forestry and Forestry Postmining Land Use

This provision is amended by adding the words ''[c]ommercial forestry shall be established on areas receiving a variance from AOC and'' at the beginning of the third sentence. This amendment is intended to clarify that only commercial forestry postmining land use and not forestry postmining land use may be approved for areas receiving a variance from the AOC requirements. This amendment satisfies the required program amendment codified at 30 CFR 948.16(tttt). Therefore, we find that this amendment can be approved and the required program amendment codified at 30 CFR 948.16(tttt) can be removed.

7. 38–2–7.4.b.1.C.5. Forestry Postmining Land Use—Ponds and Impoundments

This provision is amended by clarifying that ponds and impoundments below the fill must be removed after mining and all other ponds or impoundments that are left in place must meet the requirements of CSR 38–2–5.5. As amended, this provision satisfies the required program amendment at 30 CFR 948.16(uuuu). Therefore, we find that this amendment can be approved and the required program amendment codified at 30 CFR 948.16(uuuu) can be removed.

8. 38–2–7.4.b.1.D.1. Definition of Soil

This provision is amended by adding the following definitions of O horizon and Cr horizon:

> O horizon means the top-most horizon or layer of soil dominated by organic material derived from dead plants and animals at various stages of decomposition; it is sometimes referred to as the duff or litter layer or the forest floor. Cr horizon means the horizon or layer below the C horizon, consisting of weathered or soft bedrock including saprolite or partly consolidated soft sandstone, siltstone, or shale.

We find that the definitions for O and Cr horizons at 38–2–7.4.b1.D.1 are acceptable and further clarify the State's soil horizon requirements. Though different from the Federal definition of soil horizons at 30 CFR 701.5, the State's definitions are not inconsistent with the Federal definition and can be approved. As proposed, this provision partially satisfies the required program amendment at 30 CFR 948.16(vvvv).

The required program amendment at 30 CFR 948.16(vvvv) also requires that the State delete the phrase ''except for those areas with a slope of at least 50%'' from its regulations at CSR 38–2–7.4.1.D.2. We have reconsidered this required amendment, and for the reasons discussed below find that the phrase ''except for those areas with a slope of at least 50%'' does not render the West Virginia program less effective. Therefore, the required program amendment at 30 CFR 948.16(vvvv) is fully satisfied and can be removed.

The State regulations at CSR 38–2–7.4 set forth the standards applicable to mountaintop removal mining operations with a postmining land use of ''commercial forestry and forestry.'' The CSR 38–2–7.4.b.1.D concerns soil and soil substitutes. Subsection 7.4.b.1.D.1 defines soil. Subsection 7.4.b.1.D.2 concerns the recovery of soil, and provides that the operator must recover and use the soil volume equal to the total soil volume on the mined area, except for those areas with a slope of at least 50 percent. In other words, soil, which includes the O, A, E, B, C, and Cr horizons on slopes less than 50 percent within the mined area will be recovered and used, whereas soil on slopes 50 percent or steeper will not be separately recovered. We had interpreted subsection 7.4.b.1.D.2 to mean that for slopes of 50 percent or greater, the topsoil would not be recovered and, therefore, the provision rendered the West Virginia program less effective than the Federal regulations at 30 CFR 816.22.

Because subsection 7.4.b.1.D.2 only addresses soil, it must be read in concert with subsections 7.4.b.1.D.3, D.4, and D.5 to fully understand its effect. It is our understanding that under subsection 7.4.b.1.D.2, when slopes are 50 percent or steeper, the soil may not be separately recovered. In such cases, the requirements of subsection 7.4.b.1.D.3 concerning soil substitutes would apply. Subsection 7.4.b.1.D.3 provides that when the soil volume recovered under subsection 7.4.b.1.D.2 is not sufficient to meet the depth requirements for the postmining land use, selected overburden materials may be used as soil substitutes from within 10 feet of the soil surface on the mined area. Subsection 7.4.b.1.D.3 provides that material from this 10-foot layer may be removed with the soil and mixed with the soil in order to meet the depth requirement. We understand this to mean that, despite the fact that under subsection 7.4.b.1.D.2 soil may not be separately removed on slopes of at least 50 percent, the soil on those slopes will be removed together with the underlying 10-feet of weathered, slightly acid brown sandstone as necessary to meet the depth requirements, and the resulting soil medium will be the best available to support the proposed revegetation. (We note that subsection 7.4.b.1.D.3 contains a typographical error; in the first sentence, the word ''sufficient'' should be ''insufficient'' as noted previously in our final rule of August 18, 2000, 65 FR at 50417.)

Subsection 7.4.b.1.D.4 provides that if the soil and other materials saved under paragraph D.2 and the underlying 10 feet of weathered, slightly acid brown sandstone saved under paragraph D.3 are insufficient to meet the depth requirements, the operator will be required to use more of the weathered, slightly acid brown sandstone from below the 10 feet of soil surface on the mined area to meet the depth requirements.

Subsection 7.4.b.1.D.5 provides that upon a demonstration that the depth of materials saved under subsections 7.4.b.1.D.2, D.3, and D.4 are insufficient to meet the depth requirements, then up to 2/3 of the mine spoil may consist of the best available material or mix of materials.

Taken together, and based on our understanding discussed above, we find that these subsections are no less effective than the Federal regulations at 30 CFR 816.22. Therefore, the required program amendment at 30 CFR 948.16(vvvv) is satisfied and can be removed.

9. 38–2–7.4.b.1.G.1. Ground Cover Vegetation

This provision is amended by deleting the word ''excessive'' from the last sentence. In addition, the following language is added to the end of this provision:

Lesser or no vegetative cover may only be authorized by the Secretary when mulch or other soil stabilizing practices have been used to protect all disturbed areas unless demonstrated that the reduced cover is sufficient to control erosion and air pollution attendant to erosion regardless of slope.

These amendments are intended to satisfy the required program amendment at 30 CFR 948.16(xxxx). The requirement at 30 CFR 948.16(xxxx) provides that the West Virginia program must be amended to:

(1) Delete the word ''excessive'' at CSR 38–2–7.4.b.1.G.1.; and (2) provide that at CSR 38–2–7.4.b.1.G.1., lesser or no vegetative cover may only be authorized by the Director [Secretary] when mulch or other soil stabilizing practices have been used to protect all disturbed areas and it has been demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion regardless of slope.

The amendments proposed by the State are identical to the requirements at 30 CFR 948.16(xxxx) except as follows. The State's proposed language includes the word ''unless'' where the language of the required amendment uses the word ''and.'' The effect of the word ''unless'' is that the amendment provides that lesser or no vegetative cover may be authorized if: (1) Mulch or other soil stabilizing practices are used; or (2) the reduced vegetative cover is sufficient to control erosion and attendant air pollution, in which case mulch or other soil stabilizing practices need not be used as provided by 30 CFR 816/817.114. We find that with the removal of the word ''excessive,'' the required program amendment at 30 CFR 948.16(xxxx) is satisfied and the amendment can be approved. Therefore, the required program amendment at 30 CFR 948.16(xxxx) can be removed. Using the word ''unless'' is sufficient to assure the control of erosion while more effectively promoting tree establishment by not requiring mulch or other stabilizing practices that may inhibit tree establishment where they are not needed to control erosion.

10. 38–2–7.4.b.1.G.3. Rills and Gullies

This provision is being amended by adding the following language to the end of the existing provision:

and/or disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of the water quality standards for the receiving stream.

As amended, this provision provides as follows:

7.4.b.1.G.3. The permittee may regrade and reseed only those rills and gullies that are unstable and/or disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of the water quality standards for the receiving stream.

The Federal regulations at 30 CFR 816.95(b) require that rills and gullies that either (1) disrupt the postmining land use or the reestablishment of the vegetative cover or (2) cause or contribute to the violation of water quality standards be filled, regraded, or otherwise stabilized. We understand the amended State provision to mean that a permittee is generally not authorized to repair rills and gullies, except those rills and gullies that are unstable and/or disrupt the approved postmining land use, the establishment of vegetative cover, or cause or contribute to a violation of water quality standards for the receiving stream. This provision is intended to eliminate the compaction of revegetation soils that would normally take place during routine repair of rills and gullies. Such compaction can have a detrimental effect on tree growth. Therefore, the limitation on the repair of rills and gullies is intended to help assure the success of the commercial forestry postmining land use.

An area of potential concern with this provision is that it does not explicitly require the repair of rills and gullies that disrupt the approved postmining land use, the establishment of vegetative cover, or cause or contribute to a violation of water quality standards for the receiving stream. On the other hand, the proposed provision in no way prohibits the repair of such rills and gullies. Moreover, the approved State program already requires restoration of the premining land use, or establishment of an approved alternative postmining land use after mining, (CSR 38–2–7.1.a., 7.3, respectively), the establishment of vegetative cover (38–2–7.4.b.1.G), and compliance with applicable water quality standards (CSR 38–2–14.5.b). It necessarily follows from these provisions that rills and gullies that could prevent compliance with the above requirements must be filled, regraded, or otherwise stabilized. For this reason, we find that the proposed amendment at CSR 38–2–7.4.b.1.G.3, taken in concert with the above-referenced State program requirements, does not render the program less effective than 30 CFR 816.95(b) and can be approved so long as it is implemented in a manner consistent with that Federal provision. If, in future reviews, we should determine that West Virginia is implementing this provision in a manner that is inconsistent with this finding, a further amendment may be required. In addition, we find that this amendment satisfies the required program amendment codified at 30 CFR 948.16(yyyy), which can, therefore, be removed.

11. 38–2–7.4.b.1.H.2. Commercial Forestry and Forestry—Tree Species and Compositions

This provision is amended by deleting ''7.4.b.1.G.1.'' in two places and replacing the deleted citation with ''7.4.b.1.H.1.'' We find that this amendment satisfies the required program amendment at 30 CFR 948.16(zzzz) and can be approved. The requirement at 30 CFR 948.16(zzzz) can be removed.

12. 38–2–7.4.b.1.I.2. Commercial Forestry and Forestry—Phase II Bond Release

This provision is amended by deleting a reference to CSR 38–2–7.4.d.1.G.1 and adding in its place a reference to CSR 38–2–7.4.b.1.H.1 in the third sentence. The phrase ''where there is potential for excessive erosion on slopes greater than 20%'' is deleted from the fourth sentence. The words ''and rock cover'' are deleted from the fourth sentence and are replaced by the words ''except where a lesser vegetation cover has been authorized.''

We find that the deletion of the phrase ''where there is potential for excessive erosion on slopes greater than 20%'' satisfies the required program amendment at 30 CFR 948.16(bbbbb) and can be approved. We find that the deletion of the words ''rock cover'' satisfies the required program amendment at 30 CFR 948.16(ccccc) and can be approved. Therefore, the required program amendments at 30 CFR 948.16(bbbbb) and 30 CFR 948.16(ccccc) have been satisfied and can be removed.

We find that the deletion of the reference to CSR 38–2–7.4.d.1.G.1 and the addition in its place of a reference to CSR 38–2–7.4.b.1.H.1 in the third sentence accurately corrects an erroneous citation and can be approved. This amendment also satisfies the required program amendment at 30 CFR 948.16(ddddd) which can, therefore, be removed.

We find that the addition of the words ''except where a lesser vegetation cover has been authorized'' does not, by itself,

render the West Virginia program less effective than the Federal regulations and can be approved. It is our understanding that this exception acknowledges the provision at CSR 38–2–7.4.b.1.G.1, concerning ground cover vegetation. CSR 38–2–7.4.b.1.G.1 authorizes the Secretary of the WVDEP to allow lesser or no vegetative cover under specified circumstances when mulch or other stabilizing practices have been used to protect all disturbed areas, unless it is demonstrated that the reduced vegetative cover is sufficient to control erosion and air pollution attendant to erosion regardless of slope (see Finding 9 above). Our determination that the addition of the language quoted above does not render the West Virginia program less effective than the Federal regulations is based upon our understanding that, where lesser vegetative cover is allowed, the vegetative cover must be sufficient to control erosion and air pollution attendant to erosion.

13. 38–2–7.4.b.1.I.3. Commercial Forestry and Forestry—Phase III Bond Release

This provision is amended by deleting the first word in the third sentence, and adding in its place the phrase ''[a]bove and beyond all other standards in effect.'' We find that this amendment clarifies that this provision is in addition to all other program requirements and does not render the West Virginia program less effective than the Federal regulations at 30 CFR 800.40 and can be approved.

14. 38–2–7.5.i.1.B. Homestead Roads

This provision is amended by adding, in the third sentence, the phrase ''meet the primary road requirements of section 2.4 of this rule'' immediately following the words ''Highway standards.'' It appears that the term ''section 2.4'' contains a typographical error, and should read ''section 4.'' Section ''2.4'' is actually the definition of ''acid producing coal seam,'' whereas section CSR 38–2–4 concerns ''haulage-ways, roads or access roads.''

This proposed amendment is intended to address the required program amendment codified at 30 CFR 948.16(ggggg). The Federal requirement at 30 CFR 948.16(ggggg) provides that CSR 38–2–7.5.i.1.B be amended, or that the West Virginia program otherwise be amended, to clarify that roads which meet the definition of road at CSR 38–2–2.59 and 4.1 and that are to be retained as part of the postmining land use must be designated and constructed to meet the primary road requirements of CSR 38–2–4. The State has complied with this requirement by requiring that ''main roads'' of homesteads shall meet the primary road requirements of section CSR 38–2–4. In addition, the county or State road authorities will accept responsibility for maintaining these homestead roads after mining. We are approving this amendment with the understanding that the apparent typographical error (''section 2.4'') is actually intended to be ''section 4.'' In addition, we are removing the required amendment at 30 CFR 948.16(ggggg) because it has been satisfied.

15. 38–2–7.5.i.3.Q. Homestead Water Reservoir

This provision is amended by adding a sentence to the end of this provision. The new sentence provides as follows: ''The reservoir is subject to requirements under subsection 5.5 of this rule.'' This amendment is intended to satisfy the required program amendment at 30 CFR 948.16(hhhhh).

The Federal requirement at 30 CFR 948.16(hhhhh) requires that CSR 38–2–7.5.i.3.Q be amended, or that the West Virginia program otherwise be amended, to require that all permanent impoundments approved for Homestead postmining land use must comply with CSR 38–2–3.6.b.1 and 5.5. We find that the proposed amendment satisfies the requirement to comply with CSR 38–2–5.5 and can be approved.

CSR 38–2–5.5 provides as follows:

> 5.5. Permanent impoundments. Those sediment control or other water retention structures or impounding structures to be left in place after final bond release shall be considered permanent and, if authorized by the Secretary as part of the permit application or a revision to a permit, may be left in accordance with the following requirements:

We understand CSR 38–2–5.5 to mean that a permanent impoundment may be left in place if approved by the Secretary of WVDEP as part of the permit application or a revision to a permit. Compliance with the permit requirements would, of course, include compliance with the requirement at CSR 38–2–3.6.b.1 for a narrative explaining the construction, modification, use, and maintenance of permanent impoundments. Therefore, we find that the required program amendment at 30 CFR 948.16(hhhhh) is fully satisfied and can be removed.

16. 38–2–7.5.i.10. Wetlands for Homesteads

This provision is amended by adding a sentence to the end of this provision. The new sentence provides as follows: ''Any pond or impoundment left in place is subject to requirements under subsection 5.5 of this rule.'' We are approving the amendment because it does not render the West Virginia program less effective than the Federal regulations at 30 CFR 816.49(b).

17. 38–2–7.5.j.3.A. Soil for Homesteads

This provision is amended by adding the following definitions of O horizon and Cr horizon:

> O horizon means the top-most horizon or layer of soil dominated by organic material derived from dead plants and animals at various stages of decomposition; it is sometimes referred to as the duff or litter layer or the forest floor. Cr horizon means the horizon or layer below the C horizon, consisting of weathered or soft bedrock including saprolite or partly consolidated soft sandstone, siltstone, or shale.

There are no Federal counterparts to the proposed definitions of ''O'' and ''Cr'' soil horizons. However, we find that the proposed definitions are not inconsistent with the Federal definition of ''soil horizons'' at 30 CFR 701.5 and can be approved.

18. 38–2–7.5.j.6.A. Ground Cover Vegetation for Homesteads

This provision is amended by deleting the word ''excessive'' in the fourth sentence, immediately prior to the word ''erosion.'' This amendment is intended to satisfy the required program amendment codified at 30 CFR 948.16(mmmmm). The Federal requirement at 30 CFR 948.16(mmmmm) provides that CSR 38–2–7.5.j.6.A should be amended by deleting the word ''excessive.'' We find that the proposed amendment satisfies the required program amendment codified at 30 CFR 948.16(mmmmm) and can be approved. In addition, 30 CFR 948.16(mmmmm) can be removed.

19. 38–2–7.5.j.6.B. Rills and Gullies Associated Wth Homesteads

This provision is being amended by adding the following language to the end of the existing provision:

> And/or disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of the water quality standards for the receiving stream.

As amended, this provision provides as follows:

> 7.5.j.6.B. The permittee may regrade and reseed only those rills and gullies that are unstable and/or disrupt the approved postmining land use or the establishment of vegetative cover or cause or contribute to a violation of the water quality standards for the receiving stream.

The Federal regulations at 30 CFR 816.95(b) require that rills and gullies that either (1) disrupt the postmining

land use or the reestablishment of the vegetative cover or (2) cause or contribute to the violation of water quality standards be filled, regraded, or otherwise stabilized. We understand the amended State provision to mean that a permittee is generally not authorized to repair rills and gullies, except those rills and gullies that are unstable and/ or disrupt the approved postmining land use, the establishment of vegetative cover, or cause or contribute to a violation of water quality standards for the receiving stream.

An area of potential concern with this provision is that it does not explicitly require the repair of rills and gullies that disrupt the approved postmining land use, the establishment of vegetative cover, or cause or contribute to a violation of water quality standards for the receiving stream. On the other hand, the proposed provision in no way prohibits the repair of such rills and gullies. Moreover, the approved State program already requires restoration of the premining land use, or establishment of an approved alternative postmining land use after mining, (CSR 38–2–7.1.a., 7.3., respectively), the establishment of vegetative cover (38–2–7.4.b.1.G), and compliance with applicable water quality standards (CSR 38–2–14.5.b). It necessarily follows from these provisions that rills and gullies that could prevent compliance with the above requirements must be filled, regraded, or otherwise stabilized. For this reason, we find that the proposed amendment at CSR 38–2–7.5.j.6.B, taken in concert with the above-referenced State program requirements, does not render the program less effective than 30 CFR 816.95(b) and can be approved so long as it is implemented in a manner consistent with that Federal provision. If, in future reviews, we should determine that West Virginia is implementing this provision in a manner that is inconsistent with this finding, a further amendment may be required. In addition, we find that this amendment satisfies the required program amendment codified at 30 CFR 948.16(nnnnn), which can, therefore, be removed.

20. 38–2–7.5.o.2. Phase II Bond Release for Homesteads

This provision is amended by deleting the words ''rock cover'' from the list that defines ''ground cover.'' This amendment is intended to satisfy the required program amendment codified at 30 CFR 948.16(qqqqq), which requires the deletion of the words ''rock cover'' from CSR 38–2–7.5.o.2. We find that the proposed amendment satisfies the required program amendment at 30 CFR 948.16(qqqqq) and can be approved. In addition, we find that 30 CFR 948.16(qqqqq) can be removed.

21. 38–2–10.4.a.1.D. Prime Farmland

This is a new provision and provides as follows:

> 10.4.a.1.D. The aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, constructed during mining and reclamation must be located within the post reclamation non-prime farmland portions of the permit area. The creation of such water bodies must be approved by the Department of Environmental Protection and have the consent of all affected property owners within the permit area.

We find that this provision, although codified as a performance standard, is substantively identical to the Federal counterpart regulations at 30 CFR 785.17(e)(5) and can be approved because the State's permit findings for prime farmland at subsection 3.20 would require compliance with it.

22. 38–2–11.5. Open Acre Limit Bonding

This subsection concerning open acre limit bonding has been deleted. In its submittal of this amendment, WVDEP stated that CSR 38–2–11.5 was deleted because these bonding provisions were obsolete and no longer utilized in the State. There is no Federal counterpart to this deleted provision. However, we find that its deletion does not render the West Virginia program less effective than the Federal regulations and can be approved.

23. 38–2–11.5 (formerly 11.6) Site Specific Bonding

Subdivision 38–2–11.5.a. was amended by deleting a requirement in the fifth paragraph that existing permits be reviewed at mid-term to determine adequacy of existing bond. As amended, bond adequacy would be evaluated only at the time of permit renewal. In addition, the bond adequacy determination criteria at CSR 38–2–11.5.a.1 through a.5 are deleted. Finally, the paragraph following 38–2–11.5.a.5., concerning operations with inactive status, was deleted.

In its submittal of these revisions, WVDEP stated that the purpose of these amendments was to update this section. The Federal regulations at 30 CFR 800.15(a), concerning adjustment of bond amount, provide that the amount of the permittee's bond or deposit shall be adjusted from time to time as the area requiring bond coverage is increased or decreased or where the cost of future reclamation changes. In addition, 30 CFR 774.10 requires regulatory authorities to review outstanding permits during the term of the permit. The deletion of the requirement for mid-term review at CSR 38–2–11.5.a appears to render the West Virginia program less effective than the Federal requirements at 30 CFR 774.10 and 800.15(a). However, W. Va. Code 22–3–19(c) continues to require the mid-term review, wherein the WVDEP may require reasonable revisions or modifications of a permit, based on written findings.

The deletion of the bond adequacy determination criteria at 38–2–11.5.a.1. through 11.5.a.5. does not render the State rules less effective than the Federal regulations. Despite the deletion of the criteria at 11.5.a.1. through 5., the State rules at 38–2–11.5.b. through 11.5.f. provide the criteria to determine the site-specific bond amount. Therefore, the deletion of CSR 38–2–11.5.a.1 through 11.5.a.5 can be approved.

The deletion of the paragraph following CSR 38–2–11.5.a.5, concerning operations with inactive status, does not render the West Virginia program less effective, because the site-specific criteria for determining the appropriate bond at CSR 38–2–11.5.b through 11.5.f apply to all operations, including those on inactive status. All existing permits with inactive status have been reviewed by the State since these requirements took effect and their bonds have been adjusted to comply with the site-specific bonding requirements. Therefore, the deleted paragraph concerning inactive status that appeared immediately following CSR 38–2–11.5.a.5 is no longer necessary and the deletion can be approved.

24. 38–2–12.5.e. Acid Mine Drainage (AMD) Bond Forfeiture Inventory

This provision is amended by updating, from 1993 to 2002, the date that the AMD bond forfeiture inventory must be submitted to the West Virginia Legislature. In addition, the submittal of the inventory will be required annually. In its submittal of this amendment, WVDEP stated that the change will make its rules consistent with the W.Va. Code. We find that these amendments do not render the West Virginia program less effective than the Federal regulations and can be approved.

25. 38–2–14.12.a.1. Variance from Approximate Original Contour (AOC) Requirements

This provision concerns the procedures for obtaining an AOC variance for steep slope mining

operations, and is amended by deleting the words ''commercial forestry.'' This amendment is intended to satisfy the required program amendment codified at 30 CFR 948.16(eeeee). The Federal requirement at 30 CFR 948.16(eeeee) provides that the State must delete the words ''commercial forestry'' at CSR 38–2–14.12.a.1. This revision was necessary because agricultural uses, which may include commercial forestry, are not authorized postmining land uses for steep slope mining operations seeking a variance from the AOC restoration requirements at section 515(e)(2) of SMCRA. The deletion of the words ''commercial forestry'' at subsection 14.12.a.1 is no less effective than the Federal requirements at 30 CFR 785.16(a)(1). Therefore, we find that this amendment satisfies the required program amendment codified at 30 CFR 948.16(eeeee) and can be approved. In addition, the required program amendment at 30 CFR 948.16(eeeee) can be removed.

26. 38–2–17.3.b.2. Eligibility for Small Operator Assistance Program (SOAP)

This provision is amended by deleting the term 5 percent, and adding in its place the term 10 percent. As amended, this provision provides that production from the following operations shall be attributed to the applicant:

17.3.b.2. The pro rata share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than ten percent (10%) of the applicant's operation;

We find that this revision renders the provision substantively identical to and no less effective than the counterpart Federal SOAP eligibility provision at 30 CFR 795.6(a)(2)(ii), and can be approved. In addition, we find that the proposed State revision satisfies that portion of our 732 letter dated July 22, 1997, regarding SOAP eligibility requirements.

27. 38–2–17.4. Request for SOAP Assistance

This provision is amended by adding new subdivisions 17.4.a through 17.4.f.2 to provide as follows:

17.4. Request for Assistance. Each applicant requesting assistance shall provide information on forms provided by the Secretary in an application that shall be clear and concise and shall be provided in a format prescribed by the Secretary and/or a format required by the Federal Office of Surface Mining Reclamation and Enforcement. Each application for assistance shall include the following information:

17.4.a. A statement of the operator's intent to file a permit application;

17.4.b. The names and addresses of:

17.4.b.1. The permit applicant; and

17.4.b.2. The operator, if different from the applicant.

17.4.c. A schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant. The schedule shall include for each location:

17.4.c.1. The operator or company name under which coal is or will be mined;

17.4.c.2. The permit number and Mine Safety and Health Administration (MSHA) number;

17.4.c.3. The actual coal production during the year preceding the year for which the applicant applies for assistance and production that may be attributed to the applicant; and

17.4.c.4. The estimated coal production and any production which may be attributed to the applicant for each year of the proposed permit.

17.4.d. A description of:

17.4.d.1. The proposed method of coal mining;

17.4.d.2. The anticipated starting and termination dates of mining operations;

17.3.d.3. The number of acres of land to be affected by the proposed mining operation; and

17.4.d.4. A general statement on the probable depth and thickness of the coal resource including a statement of reserves in the permit area and the method by which they were calculated.

17.4.e. A U.S. Geological Survey topographic map at a scale of 1:24,000 or larger or other topographic map of equivalent detail which clearly shows:

17.4.e.1. The area of land to be affected;

17.4.e.2. The location of any existing or proposed test borings; and

17.4.e.3. The location and extent of known workings of any underground mines.

17.4.f. Copies of documents which show that:

17.4.f.1. The applicant has a legal right to enter and commence mining within the permit area; and

17.4.f.2. A legal right of entry has been obtained for the program administrator and laboratory personnel to inspect the lands to be mined and adjacent areas to collect environmental data or to install necessary instruments.

We find these new provisions, which list information required to be submitted by applicants filing for SOAP assistance, are substantively identical to and no less effective than the counterpart Federal regulations at 30 CFR 795.7 and can be approved. In addition, we find that the proposed State revision satisfies that portion of our 732 letter dated July 22, 1997, regarding inadequate SOAP application requirements.

17.6.a. Qualified Laboratories.

The State proposes to amend its definition of qualified laboratory. These laboratories provide services under SOAP. This provision is amended by adding the word ''institution'' between the words ''private consulting firm'' and ''or analytical laboratory.'' In addition, the following words are being added immediately following the words ''or analytical laboratory:''

That can provide the required determination of a probable hydrologic consequences or statement of results of test borings or core samplings or other services as specified under the Small Operator Assistance Program and that is * * *—

As amended, subdivision 17.6.a. provides as follows:

17.6.a. General. A qualified laboratory means a designated public agency, private consulting firm, institution, or analytical laboratory that can provide the required determination of a probable hydrologic consequences or statement of results of test borings or core samplings or other services as specified under the Small Operator Assistance Program and that is approved by the Department of Environmental Protection as a SOAP contractor.

The Federal requirements at 30 CFR 795.9 provide the requirements concerning SOAP program services and data requirements. We find that as amended, the definition of qualified laboratory at subdivision 17.6.a. is substantively identical to and no less effective than the counterpart Federal definition of ''qualified laboratory'' at 30 CFR 795.3.

The Federal definition of qualified laboratory at 30 CFR 795.3 provides that a qualified laboratory must be capable of providing the services identified at 30 CFR 795.3, ''or other services as specified at 30 CFR 795.9 under the Small Operator Assistance Program and that meets the standards of section 795.10.'' The amended definition of qualified laboratory at subdivision 17.6.a does not contain the specific citation as to the location in the West Virginia program of the ''other services'' that a qualified laboratory must be capable of providing. However, some of the other services offered under SOAP are specified in the West Virginia program at W. Va. Code 22–3–9(b). Therefore, we find that the lack of a specific citation at subdivision 17.6.a as to the location of the ''other services as specified under the Small Operator Assistance Program,'' does not render the definition of ''qualified laboratory'' less effective than the counterpart Federal definition. However, not all

services offered under SOAP at 30 CFR 795.9 are yet identified at W.Va. Code 22–3–9(b). As requested through our 732 letter dated July 22, 1997, the State still needs to amend its SOAP rules at section 17 to include all services provided under 30 CFR 795.9.

In addition, the State definition of ''qualified laboratory'' lacks a counterpart to the Federal requirement that a ''qualified laboratory'' must meet the standards of 30 CFR 795.10 concerning qualified laboratories. However, subdivision 17.6.b, concerning basic qualifications for laboratories or contractors, provides that to qualify for designation as a qualified laboratory, the laboratory or contractor must demonstrate compliance with the requirements specified at CSR 38–2–17.6.b and 17.6.c. These provisions are the State counterparts to the Federal requirements at 30 CFR 795.10. Therefore, we find that the lack of a specific counterpart at subdivision 17.6.a to the Federal requirement that a ''qualified laboratory'' meet the standards of 30 CFR 795.10 does not render the State definition of ''qualified laboratory'' less effective than the counterpart Federal definition.

For all the reasons stated above, we find that the State's definition of qualified laboratory at subsection 17.6.a is no less effective than the Federal definition at 30 CFR 795.3 and can be approved. In addition, we find that the proposed State revision satisfies that portion of our 732 letter dated July 22, 1997, regarding qualified laboratory. As West Virginia complies with the requirement to amend section 17 to identify all the program services as provided under 30 CFR 795.9, those additional services will automatically fall within the requirement that they be performed by a qualified laboratory since the definition approved here includes all services provided under SOAP.

IV. Summary and Disposition of Comments

Public Comments

No public comments were received in response to our request for comments from the public on the proposed amendment.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, on June 14, 2002, and August 7, 2002, we requested comments on these amendments from various Federal agencies with an actual or potential interest in the West Virginia program (Administrative Record Numbers WV–1314 and WV–1321, respectively). By letters dated July 11, 2002, and September 20, 2002, the U.S. Department of Labor's Mine Safety and Health Administration (MSHA) responded (Administrative Record Numbers WV–1320 and WV–1331). MSHA stated that it finds no changes or issues that impact upon coal miners' health and safety and that there is no conflict with MSHA regulations.

In addition, the U.S. Department of the Interior's Fish and Wildlife Service (USFWS) responded to our request for comments on September 10, 2002 (Administrative Record Number WV–1329). USFWS provided comments pursuant to the Fish and Wildlife Coordination Act and the Endangered Species Act. These comments, however, are targeted at sections of the amendment that are not being considered for approval in this rulemaking, but that have been addressed in our decision on WV–096 or will be considered at a later date for WV–089. State program amendment WV–096 and the discussion of any comments received on it were the subject of a notice published in the **Federal Register** on December 3, 2002 (67 FR 71832–71840). We have not rendered a final decision on State program amendment WV–089, which was submitted in response to several outstanding 732 letters. Any comments pertaining to those outstanding requirements will be addressed when the final rule is published in the **Federal Register** at a later date.

USFWS also identified typographical errors in two subsections that are not being revised in this amendment. At CSR 38–2–7.4.b.1.C.6, the citation ''7.4.d.1.C.4'' should be ''7.4.b.1.C.4.'' At CSR 38–2–7.4.b.1.D.12, the citation ''7.4.d.1.D'' should be ''7.4.b.1.D.'' We will inform WVDEP about these typographical errors.

Environmental Protection Agency (EPA) Concurrence/Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). On June 14, 2002, we requested concurrence and comments from EPA on House Bill 4163 (Administrative Record Numbers WV–1313). On August 7, 2002, we requested comments from EPA on Senate Bill 2002 (Administrative Record Number WV–1321).

EPA responded to both requests by letter dated October 28, 2002 (Administrative Record Number WV–1340). EPA concurred on the proposed amendments and provided comments on sections of the amendment that are not being considered for approval in this rulemaking. As discussed above, their comments have been addressed in our decision on WV–096 or will be considered at a later date in our decision on WV–089.

V. OSM's Decision

Based on the above findings, we are approving the amendments to the West Virginia program as submitted to us on April 9, 2002, and June 19, 2002. In addition, the following required program amendments are satisfied and can be removed: 30 CFR 948.16 (rrrr), (ssss), (tttt), (uuuu), (vvvv), (xxxx), (yyyy), (zzzz), (bbbbb), (ccccc), (ddddd), (eeeee), (ggggg), (hhhhh), (mmmmm), (nnnnn), and (qqqqq).

To implement this decision, we are amending the Federal regulations at 30 CFR Part 948, which codify decisions concerning the West Virginia program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10),

decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. This final rule applies only to the West Virginia program and therefore does not affect tribal programs.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 18, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR Part 948 is amended as set forth below:

PART 948—WEST VIRGINIA

■ 1. The authority citation for Part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 948.15 is amended in the table by adding a new entry in chronological order by ''Date of publication of final rule'' to read as follows:

948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of publication of final rule	Citation/description of appproved provisions
* *	* *	* * *
April 9, 2002 ..... June 19, 2002	June 27, 2003	CSR 38–2: 2.31.b.1; 2.43; 2.108; 3.1.i.2; 3.25.a.4; 3.30.d.8; 3.32.e;5.4.e.2; 7.4.a.1; 7.4.b.1.C.5; 7.4.b.1.D.1; 7.4.b.1.G.1; 7.4.b.1.G.3; 7.4.b.1.H.2; 7.4.b.1.I.2; 7.4.b.1.I.3; 7.5.i.1.B; 7.5.i.3.Q; 7.5.i.10; 7.5.j.3.A; 7.5.j.6.A; 7.5.j.6.B; 7.5.o.2; 8.2.b.3; 10.4.a.1.D;10.6.b.3; 11.2.b; 11.4.a.1; 11.4.a.4; 11.5. (deletion of former); 11.5.a; 12.5.e; 14.12.a.1; 17.3.b.2; 17.4; 17.6; and 22.7.a.

■ 3. Section 948.16 is amended by removing and reserving paragraphs (rrrr), (ssss), (tttt), (uuuu), (vvvv), (xxxx), (yyyy), (zzzz), (bbbbb), (ccccc), (ddddd), (eeeee), (ggggg), (hhhhh), (mmmmm), (nnnnn), and (qqqqq).

[FR Doc. 03–16353 Filed 6–26–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 575

Iraqi Sanctions Regulations; Authorization of Certain New Transactions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Interim final rule.

SUMMARY: The Office of Foreign Assets Control (''OFAC'') of the U.S. Department of the Treasury is amending the Iraqi Sanctions Regulations, 31 CFR part 575, to include a general license authorizing certain new transactions. The general license reflects United Nations Security Council Resolution 1483 and authorizes all transactions otherwise prohibited by subpart B of the Iraqi Sanctions Regulations, with four exceptions: Accounts and other property that were blocked as of May 23, 2003, remain blocked, certain exports and reexports to Iraq will continue to require an OFAC license, transactions with certain persons are not authorized, and transactions in certain Iraqi cultural property are not authorized. With those four exceptions, this general license effectively lifts the economic sanctions administered by OFAC with respect to Iraq.

DATES: Effective May 23, 2003. Written comments must be received no later than August 26, 2003.

ADDRESSES: Comments may be submitted to the Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Alternatively, comments may be submitted via facsimile to the Chief of Records at 202/622–1657 or via OFAC's Web site *http://www.treas.gov/offices/enforcement/ofac/comment.html.*

FOR FURTHER INFORMATION CONTACT: OFAC's Chief of Licensing, tel. 202/622–2480, Chief of Policy Planning and Program Management, tel. 202/622–2500, or Chief Counsel, tel. 202/622–2410.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1990, upon Iraq's invasion of Kuwait, the President issued Executive Order 12722, declaring a national emergency with respect to Iraq. This order, issued under the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the U.S. Code, imposed economic sanctions, including a complete trade embargo, with respect to Iraq. In keeping with United Nations Security Council Resolution 661 of August 6, 1990, and under the United Nations Participation Act (22 U.S.C. 287c), the President also issued Executive Order 12724 of August 9, 1990, which imposed additional restrictions. The Iraqi Sanctions Regulations, 31 CFR part 575 (the ''Regulations''), implement Executive Orders 12722 and 12724 and are administered by the Treasury Department's Office of Foreign Assets Control (''OFAC'').

On May 22, 2003, the United Nations Security Council adopted Resolution 1483, which substantially lifted the multilateral economic sanctions with respect to Iraq. On May 23, 2003, OFAC issued a general license that reflected Resolution 1483. This general license is published today as new section 575.533 of the Regulations.

Paragraph (a) of section 575.533 authorizes all transactions that are otherwise prohibited by subpart B of the Regulations, with four exceptions addressed in paragraph (b). Paragraph (b)(1) provides that all property and interests in property, including accounts, that were blocked pursuant to subpart B of the Regulations as of the effective date of this section remain blocked and subject to the prohibitions and requirements of the Regulations.

Paragraph (b)(2) provides that the exportation from the United States or, if subject to U.S. jurisdiction, the exportation or reexportation from a third country to Iraq of any goods or technology (including technical data or other information) controlled by the Department of Commerce under the Export Administration Regulations (15 CFR chapter VII, subchapter C) for exportation to Iraq must be separately authorized by OFAC. The note to paragraph (b)(2) explains the scope of the term ''controlled by the Department of Commerce'' and requests that exporters and reexporters contact the Department of Commerce, Bureau of Industry and Security, to inquire whether particular goods or technology are so controlled.

Paragraph (b)(3) provides that the general license does not authorize transactions with three classes of persons: (i) Specially-designated nationals or ''SDNs'' of the Government of Iraq, (ii) persons on the Defense Department's 55-person Watch List, or (iii) persons identified by the 661 Committee pursuant to paragraphs 19 and 23 of United Nations Security Council Resolution 1483, adopted May 22, 2003. To the extent that such transactions would otherwise be prohibited by the Regulations, they remain prohibited.

Paragraph (b)(4) provides that the general license does not authorize transactions with respect to Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990. Any trade in or transfer of such items, including items with respect to which reasonable suspicion exists that they have been illegally removed, remains prohibited by subpart B of the Regulations. The note to paragraph (b)(4) refers inquiries concerning particular Iraqi cultural property to the Cultural Property Office at the Department of State.

Paragraph (c) provides that the effective date of the section is May 23, 2003.

Examples of newly-authorized transactions include investment by U.S. persons in Iraq, the importation of goods or services of Iraqi origin (with the exception of the cultural properties described in paragraph (b)(4)), travel-related transactions involving Iraq, the transfer of funds to or from Iraq, and transactions related to transportation to or from Iraq. This authorization, however, does not eliminate the need to comply with other provisions of 31 CFR chapter V or with other applicable provisions of law, including any aviation, financial, or trade requirements of agencies other than OFAC. Such requirements include the International Traffic in Arms Regulations (22 CFR chapters 120–130) administered by the Department of State.

Request for Comments

Because amendment of these regulations involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. However,

because of the importance of the issues addressed in these regulations, this rule is being issued in interim form and comments will be considered in the development of a final rule. Accordingly, OFAC encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments may address the impact of the regulations on the submitter's activities, whether of a commercial, non-commercial or humanitarian nature, as well as changes that would improve the clarity and organization of the regulations.

The period for submission of comments will close August 26, 2003. The address for submitting comments appears near the beginning of this document. OFAC will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. OFAC will not accept public comments accompanied by a request that a part or all of the submission be treated confidentially because of its business proprietary nature or for any other reason. OFAC will return such a submission to the originator without considering the comments in the development of final regulations. In the interest of accuracy and completeness, OFAC requires comments in written form.

All public comments on these regulations will be a matter of public record. Copies of the public record concerning these regulations will be made available not sooner than September 25, 2003, and will be obtainable from OFAC's Web site *http://www.treas.gov/ofac.* If that service is unavailable, written requests for copies may be sent to Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave, NW., Washington, DC 20220, Attn: Chief, Records Division.

Electronic Availability

This document is available as an electronic file on the Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type ''/GO FAC,'' or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web, Telnet, or FTP protocol is *fedbbs.access.gpo.gov.* This document and additional information concerning OFAC are available from OFAC's Web site *http://www.treas.gov/ofac.*

Paperwork Reduction Act

The collections of information related to these regulations can be found in 31 CFR part 501. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget under control number 1505–0164.

List of Subjects in 31 CFR Part 575

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Iran, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Terrorism, Travel restrictions.

■ For the reasons stated in the preamble, 31 CFR part 575 is amended as set forth below:

PART 575—IRAQI SANCTIONS REGULATIONS

■ 1. The authority citation for 31 CFR part 575 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–513, 104 Stat. 2047–2055 (50 U.S.C. 1701 note); E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1990 Comp., p. 297; E.O. 12817, 57 FR 48433, 3 CFR, 1992 Comp., p. 317.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Add a new § 575.533 to subpart E to read as follows:

§ 575.533 Certain new transactions.

(a) *New Transactions.* Except as provided in paragraph (b) of this section, on or after the effective date of this section, all transactions that are otherwise prohibited by subpart B of this part are authorized.

Note to paragraph (a): This authorization does not eliminate the need to comply with other provisions of 31 CFR chapter V or with other applicable provisions of law, including any aviation, financial, or trade requirements of agencies other than the Department of the Treasury's Office of Foreign Assets Control. Such requirements include the International Traffic in Arms Regulations (22 CFR parts 120 through 130) administered by the Department of State.

(b) *Continued Blocking, Special Provisions for Certain Exports and Reexports, and Additional Conditions.* (1) All property and interests in property that were blocked pursuant to subpart B of this part as of the effective date of this section remain blocked and subject to the prohibitions and requirements of this part.

(2) The exportation from the United States or, if subject to U.S. jurisdiction, the exportation or reexportation from a third country to Iraq of any goods or technology (including technical data or other information) controlled by the Department of Commerce under the Export Administration Regulations (15 CFR chapter VII, subchapter C) for exportation to Iraq must be separately authorized by or pursuant to this part.

Note to paragraph (b)(2): The term ''controlled by the Department of Commerce'' means subject to a license requirement under the Department of Commerce's Export Administration Regulations (EAR). Items subject to a license requirement under the EAR include items on the Commerce Control List that are listed in 15 CFR 746.3 as requiring a license for exportation or reexportation to Iraq, as well as items and activities that require a license under the end-use and end-user provisions of 15 CFR part 744. To inquire whether particular goods or technology are controlled by the Department of Commerce under the Export Administration Regulations for exportation to Iraq, the exporter or reexporter should contact the Department of Commerce, Bureau of Industry and Security.

(3) This section does not authorize any transactions with:

(i) Persons or organizations determined by the Director of the Office of Foreign Assets Control to be included within § 575.306,

(ii) Persons on the Defense Department's 55-person Watch List, or

(iii) Persons identified by the 661 Committee pursuant to paragraphs 19 and 23 of United Nations Security Council Resolution 1483, adopted May 22, 2003.

Note to paragraph (b)(3): Persons determined by the Director of the Office of Foreign Assets Control to be included within § 575.306 are also known as specially-designated nationals (''SDNs'') of the Government of Iraq. These persons are included in Appendix A to 31 CFR chapter V, and an up-to-date list is maintained on the Office of Foreign Assets Control's Web site at *http://www.treas.gov/ofac.*

(4) This section does not authorize any transactions with respect to Iraqi cultural property or other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990. Any trade in or transfer of such items, including items with respect to which reasonable suspicion exists that they have been illegally removed,

remains prohibited by subpart B of this part.

Note to paragraph (b)(4): Questions concerning whether particular Iraqi cultural property or other items are subject to this paragraph should be directed to the Cultural Property Office, U.S. Department of State, tel. 202/619–6612, fax 202/260–4893, Web site *http://www.exchanges.state.gov/culprop, email culprop@pd.state.gov.*

(c) *Effective Date.* This section is effective May 23, 2003.

Dated: June 4, 2003.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 23, 2003.

Juan C. Zarate,

Deputy Assistant Secretary (Terrorist Financing and Financial Crimes), Department of the Treasury.

[FR Doc. 03–16216 Filed 6–24–03; 11:30 am]

BILLING CODE 4810–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–226]

RIN 1625–AA00

Safety Zone; St. Clair River, Port Huron, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Southside Summer Festival Fireworks on June 29, 2003. This safety zone is necessary to control vessel traffic within the immediate location of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of the St. Clair River.

DATES: This temporary final rule is effective from 7 p.m. until 11:30 p.m. on June 29, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD09–03–226) and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Brandon Sullivan, U. S. Coast Guard Marine Safety Office Detroit, at telephone number (313) 568–9558.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and 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**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Detroit has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

The safety zone will encompass all waters of the St. Clair River surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°58′00″ N, 082°25′17″ W. The geographic coordinates are based upon North American Datum 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The designated on-scene representative will be the Patrol Commander. The Patrol Commander may be contacted via VHF Channel 16.

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 this rule under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This determination is based on the minimal time that vessels will be restricted from the safety zone.

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit or anchor in the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 7 p.m. until 11:30 p.m. on the day of the event and allows vessel traffic to pass outside of the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of Lake Huron by the Ninth Coast Guard District Local Notice to Mariners and Marine Information Broadcasts. Facsimile broadcasts may also be made.

If you think that your business, organization, or governmental

jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **ADDRESSES.**)

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

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

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

Taking of Private Property

This 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

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

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Dept. of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09–226 is added to read as follows:

§ 165.T09–226 Safety Zone; St. Clair River, Port Huron, MI.

(a) *Location.* The safety zone will encompass all waters of the St. Clair River surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°58′ 00″ N, 082°25′ 17″ W (NAD 83).

(b) *Effective date.* This temporary final rule is effective from 7 p.m. until 11:30 p.m. on June 29, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16. Section 165.23 also contains other general requirements.

Dated: June 11, 2003.

P.G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 03–16302 Filed 6–26–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA087–5057a; FRL–7519–2]

Approval and Promulgation of Air Quality Implementation Plans and Approval Under Section 112(l) of the Clean Air Act; Virginia; State Operating Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Commonwealth of Virginia State Implementation Plan (SIP). The revision consists of Virginia's state operating permit program. EPA is approving this revision in accordance with the requirements of sections 110 and 112 of Clean Air Act.

DATES: This rule is effective on August 26, 2003 without further notice, unless EPA receives adverse written comment by July 28, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments should be addressed to Mr. David Campbell, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *campbell.dave@epa.gov* or to *http://www.regulations.gov.* To submit comments, please follow the detailed instructions listed in Part VI of the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 814–2196, or by e-mail at *campbell.dave@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 13, 1998, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a regulation to implement a state operating permit program that provides a procedural and legal basis for the issuance of federally enforceable operating permits. On October 1, 1999, Virginia also requested approval of its state operating permit program pursuant to section 112(l) of the Clean Air Act.

Federally enforceable state operating permits (FESOPs) may be used to establish emission standards and other source-specific regulatory requirements for stationary sources of air pollution. FESOPs are frequently employed by permitting authorities to accomplish one or more of the following objectives: To designate a source as a synthetic minor source with regard to applicability of federal requirements and standards, such as new source review; to combine a source's requirements under multiple permits into one permit; to implement emissions trading requirements; to cap the emissions of a source contributing to a violation of any air quality standard; or, to establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or state air statutes and regulations.

On February 23, 1993, EPA approved a revision to Virginia's SIP at 40 CFR 52.2420(c)(94) (currently cited as 40 CFR 53.2465(c)(94) pertaining to the Commonwealth's state operating permit program, previously Virginia Regulations for the Control of Air Pollution Part VIII, Section 120–08–04 (currently cited as 9 VAC 5–80–40.) (*See,* 58 FR 10982.) This state operating permit program allowed for the issuance of federally enforceable state operating permits or FESOPs. All sources of air pollution in Virginia with emissions above identified threshold levels were required to obtain a state operating permit. State operating permits under this program were considered federally enforceable if they were subject to the public participation provisions of the program.

In its April 13, 1998 SIP revision request, Virginia is seeking to replace the state operating permit program approved by EPA at 40 CFR 52.2465(c)(94) with a new permit program. In fact, Virginia has repealed 9 VAC 5–80–40. (However, state operating permits issued in accordance with this version of the permit program will remain federally enforceable, if applicable, until the permit expires or Virginia issues a superseding permit.) The new state operating permit program that is the subject of this action is fundamentally very similar to the previous permit program. The main distinction is that for most stationary sources of air pollution the new program is voluntary rather than compulsory.

II. Evaluation of State Operating Permit Program Under Section 110 of the Act

On June 28, 1989, EPA amended the definition of ''federally enforceable'' to clarify that terms and conditions contained in state-issued operating permits are federally enforceable for purposes of limiting a source's maximum potential emission rates or potential-to-emit (PTE). This is true provided that the state's operating permit program is approved into the SIP under section 110 of the Clean Air Act as meeting certain conditions, and provided that the permit conforms to the requirements of the approved program. The conditions for EPA approval discussed in the June 28, 1989 notice establish five criteria for approving a state operating permit program. (*See,* 54 FR 27274–27286.) The following describes each of the criteria for approval of a state operating permit program for the issuance of federally enforceable operating permits for purposes of limiting a source's PTE and how the Virginia's SIP submittal satisfies those criteria.

Criterion 1. The state operating permit program (i.e., the regulations or other administrative framework describing how such permits are issued) must be submitted to and approved by EPA as a SIP revision. On April 13, 1998, the Commonwealth of Virginia submitted an administratively and technically complete SIP revision request for approval of its state operating permit program. The permit program, 9 VAC 5–80–800 through 1040, provides the framework for permit issuance.

Criterion 2. The SIP revision must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provide that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not ''federally enforceable'' by EPA. The permit program explicitly requires, at 9 VAC 5–80–850.G, that permits issued under the program ensure that the permittee shall adhere to all terms and conditions contained in its permit. The general provisions of the permit program at 9 VAC 5–80–820.F establish that permits are considered ''federally enforceable'' only if they meet the requirements of the permit program and of EPA's underlying regulations. The list of requirements includes those criteria discussed in this document. Furthermore, the permit program's definitions of ''enforceable as a practical matter'' and ''federally enforceable'' require that permit terms must meet EPA's minimum criteria for federal enforceability, including public participation and practical enforceability requirements.

Criterion 3. The state operating permit program must require that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any applicable limitations and requirements contained in the SIP, or enforceable under the SIP, and that the program

may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise ''federally enforceable'' (e.g. standards established under sections 111 and 112 of the Clean Air Act). The permit program, at 9 VAC 5–80–820.F, requires that all ''federally enforceable'' permits shall contain emission limitations and other requirements that are at least as stringent as any applicable limitation in the SIP. The program also establishes that no permit shall contravene the requirements of any other permit (*e.g.* new source review permit) issued to a particular permittee.

Criterion 4. The limitations, controls, and requirements of the state operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter. The permit program defines ''enforceable as a practical matter'' to mean that a permit condition is permanent, quantifiable, and technically accurate and quantifiable. Also, emission limitations must provide averaging times that are at least monthly or shorter. Sufficient recordkeeping, reporting, and monitoring provisions must also be provided to ensure compliance. Furthermore, the regulation states that a permit condition must be ''enforceable as a practical matter'' in order to be considered ''federally enforceable.''

Criterion 5. The permits are issued subject to public participation. This means that the state agrees, as part of its program, to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be federally enforceable. This process must also provide for an opportunity for public comment on the permit applications prior to the issuance of the final permit. The ''federally enforceable'' permits issued under the permit program are subject to public participation. The permit program's public participation provisions at 9 VAC 5–80–1020 require that for a permit to be federally enforceable the draft permit must be subject to a 30-day public comment period that is adequately publicized. The permit program also provides the opportunity for a public hearing. The general provisions of the permit program at 9 VAC 5–80–820.F require Virginia to provide EPA with a copy of the draft permit and final permit on a timely basis.

Permits that do not undergo the public participation provisions of 9 VAC 5–80–1020 are not considered federally enforceable state operating permits. Such permits are only enforceable by the Commonwealth of Virginia unless action is taken to otherwise confer federal enforceability on an individual permit (*e.g.* approval of a state permit as part of a source-specific SIP revision.) As discussed earlier, Virginia's revised state operating permit program is voluntary. Likewise, the decision to issue an operating permit that is also federally enforceable is a discretionary authority of the Commonwealth of Virginia. Therefore, only a certain number of the permits issued pursuant to Virginia's operating permit program will be ''federally enforceable'.

In conclusion, Virginia's operating permit program clearly satisfies the criteria for approval of a state program for the issuance of federally enforceable operating permits for purposes of limiting a source's PTE and is, therefore, approved as a SIP revision. The criteria discussed above relates to operating permit programs that are to approved as part of the SIP under section 110 of the Clean Air Act. In general, FESOP permit programs approved under a SIP relate only to those pollutants regulated under section 110, that is criteria pollutants. Virginia is also seeking approval of its state operating permit program under section 112 of the Clean Air Act for the purpose of limiting the PTE of hazardous air pollutants. The following is a discussion of EPA's criteria for approval of the permit program under section 112.

III. Evaluation of State Operating Permit Program Under Section 112 of the Act

As part of this action, EPA is approving, pursuant to section 112(l) of the Clean Air Act, the Commonwealth of Virginia's October 1, 1999 request for authority to regulate hazardous air pollutant (HAPs) through the issuance of a federally enforceable state operating permit. Approval pursuant to section 112(l) of the Act would grant the Commonwealth authority to issue federally enforceable permits which limit PTE of HAPs. The EPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989 **Federal Register** notice referenced above, are also appropriate for evaluating and approving operating permit programs under section 112(l). The June 28, 1989 notice does not address HAPs because it was written prior to the 1990 amendments to section 112 of the Act. Since the Commonwealth's operating permits program meets the five program approval criteria for both criteria and hazardous air pollutants, it may be used to limit the potential to emit of both criteria and hazardous air pollutants.

In addition to meeting the criteria discussed above, the Commonwealth's permit program for limiting potential to emit of HAPs must meet the statutory criteria for approval under section 112(l)(5) of the Act. This section allows EPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standard or requirement; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA is approving the Commonwealth's state operating permit program pursuant to section 112(l) of the Act because the program meets the applicable approval criteria in section 112(l)(5) of the Act. Regarding the statutory criteria of section 112(l)(5) of the Act, EPA believes the Commonwealth's state operating permit program contains adequate authority to assure compliance with section 112 requirements since the program does not waive any section 112 requirement(s). Sources would still be required to meet section 112 requirements applicable to non-major sources. Regarding adequate resources, the Commonwealth has included in its state operating permit program provisions for the collection of fees from sources obtaining permits. Furthermore, EPA believes that the Commonwealth's state operating permit program provides for an expeditious schedule for assuring compliance because they allow a source to establish a voluntary limit on potential to emit and avoid being subject to a federal Clean Air Act requirement applicable on a particular date. Nothing in the Commonwealth's operating permit program would allow a source to avoid or delay compliance with a federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline. The Commonwealth's state operating permit program is consistent with the objectives of the section 112 program because its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. The EPA believes that this purpose is consistent with the overall intent of section 112.

IV. Implementation of Virginia's State Operating Permit Program as a Federally-Enforceable State Operating Permit Program

Virginia's operating permit program regulations became effective on April 1, 1998. The Commonwealth has been implementing this program since that date. Upon the effective date of EPA's approval of this program, all permits issued by Virginia pursuant to, and in adherence with, the requirements of 9 VAC 5–80–800 through 1040, in general, and meeting the specific requirements of 9 VAC 5–80–1020, specifically, shall be considered federally enforceable state operating permits. Likewise, any permits issued after the effective date of this action may be considered federally enforceable provided they meet the same conditions.

Each permit that meet the requirements of 9 VAC 5–80–800 through 1040, including 9 VAC 5–80–1020 are to be considered federally enforceable in their entirety. The EPA does not interpret Virginia's regulations to allow for an individual operating permit to have both federal enforceable and state-only enforceable conditions or sections. The EPA does not believe it is the Commonwealth's intention to attempt to implement its program in such a manner.

Since Virginia's operating permit program provides for the issuance of federal enforceable permits and state-only enforceable permits, EPA believes it is important for the Commonwealth to clearly identify the enforceability status of each permit it issues within the body of the permit. Such identification is critical for the proper implementation of this program and other programs such as the Commonwealth's title V operating permit program. When it issues a federally enforceable operating permit, Virginia should also ensure that the proper and appropriate documentation associated with fulfilling the requirements of 9 VAC 5–80–1020 are maintained as an intrinsic part of the permit document.

V. Virginia's Voluntary Environmental Assessment Privilege Law

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its operating permits program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

VI. Final Action

The EPA is approving the Commonwealth of Virginia's state operating permit program pursuant to sections 110 and 112 of the Clean Air Act.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision and section 112(l) approval if adverse comments are filed. This rule will be effective on August 26, 2003 without further notice unless EPA receives adverse comment by July 28, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The EPA will address all public comments in a subsequent final rule based on the 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.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number VA087–5057 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.

1. Electronically. If you submit an electronic comment as prescribed below, 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. E-mail. Comments may be sent by electronic mail (e-mail) to *campbell.dave@epa.gov,* attention VA087–5057. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, 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.

ii. Regulations.gov. Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to *http://www.regulations.gov,* then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. 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.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail. Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

VII. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 26, 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 approving Virginia's state operating permit program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

Dated: June 17, 2003.

Richard J. Kampf,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by: (a) Adding the entries for 9 VAC 5–20–220, 9 VAC 5–20–230 after the existing entry 9 VAC 5–20–206; and, (b) removing the entry for 9 VAC 5–80–40 and adding in its place entries for 9 VAC 5–80–800 through 9 VAC 5–80–1040. The revisions read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (Former SIP citation)
* *	*	*	*	*
Chapter 20—General Provisions [Part II]				
* *	*	*	*	*
5–20–220	Shutdown of a stationary source	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–20–230	Certification of documents	April 1, 1998	June 27, 2003 and Federal Register cite.	
* *	*	*	*	*
Chapter 80—Permits for New and Modified Sources [Part VIII]				
Article 5—State Operating Permits				
5–80–800	Applicability	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–810	Definitions	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–820	General	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–830	Applications	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–840	Application information required	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–850	Standards and conditions for granting permits.	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–860	Action on permit application	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–870	Application review and analysis	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–880	Compliance determination and verification by testing.	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–890	Monitoring requirements	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–900	Reporting requirements	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–910	Existence of permit no defense	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–920	Circumvention	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–930	Compliance with local zoning requirements.	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–940	Transfer of permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–950	Termination of permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–960	Changes to permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–970	Administrative permit amendments	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–980	Minor permit amendments	April 1, 1998	June 27, 2003 and Federal Register cite.	

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (Former SIP citation)
5–80–990	Significant permit amendments	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1000	Reopening for cause	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1010	Enforcement	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1020	Public participation	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1030	General permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1040	Review and evaluation of article	April 1, 1998	June 27, 2003 and Federal Register cite.	
*	*	*	*	*	*	*

* * * * *

[FR Doc. 03–16233 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN 140–4; FRL–7519–7]

Conditional Approval of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to a final rule.

SUMMARY: This document contains corrections to the codification of a final rule which was published on March 3, 2003 (68 FR 9892). The rule being corrected conditionally approved revisions to Indiana's Prevention of Significant Deterioration (PSD) State Implementation Plan (SIP).

EFFECTIVE DATE: This correction is effective June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Julie Capasso, Environmental Scientist, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, telephone (312) 886–1426.

SUPPLEMENTARY INFORMATION: On March 3, 2003 (68 FR 9892), EPA conditionally approved revisions to Indiana's PSD SIP which were submitted to EPA as a requested SIP revision on February 1, 2002. At that time, EPA incorrectly stated the effective date of the State rules incorporated by reference in 40 CFR 52.770(c)(147).

Need for Correction

As published, the final rule contains an incorrect citation of the effective date of some of the rules incorporated by reference. This error was published in the third column on page 9895. Unless this error is corrected, persons seeking a copy of the rules incorrectly cited in the codification of the final rule will be unable to locate the correct document. EPA regrets any inconvenience that this incorrect citation has caused.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 18, 2003.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–*et seq.*

■ 2. Section 52.770 is amended by revising paragraph (c)(147) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(147) On February 1, 2002, Indiana submitted its Prevention of Significant Deterioration rules as a revision to the State implementation plan.

(i) Incorporation by reference.

(A) Title 326 of the Indiana Administrative Code, Rules 2–2–1, 2–2–2, 2–2–3, 2–2–4, 2–2–5, 2–2–6, 2–2–7, 2–2–9, 2–2–12, and 2–2–14. Filed with the Secretary of State on December 20, 2001, effective January 19, 2002.

(B) Title 326 of the Indiana Administrative Code, Rules 2–2–8, 2–2–10, 2–2–11, 2–2–13, 2–2–15 and 2–2–16. Filed with the Secretary of State on March 23, 2001, effective April 22, 2001.

(C) Title 326 of the Indiana Administrative Code, Rules 2–1.1–6 and 2–1.1–8. Filed with the Secretary of State on November 25, 1998, effective December 25, 1998. Errata filed with the Secretary of State on May 12, 1999, effective June 26, 1999.

* * * * *

[FR Doc. 03–16327 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[OAR–2002–0047, FRL–7520–3]

Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because we received adverse comment, we are withdrawing the direct final rule to amend the Federal Operating Permits Program fee payment deadlines for California agricultural sources. We published the direct final rule on May 13, 2003. We stated in that **Federal Register** document that if we received adverse comment by June 12,

we would publish a timely withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule. We will address those comments in a subsequent final action based on the parallel proposal also published on May 13, 2003. As stated in the parallel proposal, we will not institute a second comment period on this action.

DATES: As of June 27, 2003, EPA withdraws the direct final rule published at 68 FR 25507 on May 13, 2003.

ADDRESSES: Docket number OAR–2002–0047, containing supporting information used in the development of the withdrawal is available for public viewing at the Air Docket in the EPA Docket Center, Room B108, 1301 Constitution Avenue, NW., Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. The telephone number for the Air Docket is (202) 566–1742.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search'' and key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information and other information whose disclosure is restricted by statute, which are not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The 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. 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 this document.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Carraway, Operating Permits Group, Office of Air Quality Standards and Planning (C304–04), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–3189; facsimile number (919) 541–5509; electronic mail address *carraway.candace@epa.gov.*

SUPPLEMENTARY INFORMATION: On May 13, 2003, we published a direct final rule (68 FR 25507) and a parallel proposal (68 FR 25548) amending the fee provisions of the Federal Operating Permits Program. The amendment extended the date by which State-exempt major agricultural sources in California must pay fees and allowed their permit applications to be considered complete even though fees may not have been paid on or before the date that applications are due.

We stated in the preamble to the direct final rule and parallel proposal that if we received significant adverse comment on the direct final rule, we would publish a timely withdrawal of the rule in the **Federal Register**. The direct final rule stated that the deadline for submitting public comments was June 12, 2003, and that the effective date of the provisions would be June 27, 2003.

Accordingly, the direct final rule is withdrawn as of June 27, 2003.

List of Subjects in 40 CFR Part 71

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

Dated: June 20, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 03–16326 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

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

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, P.E., FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

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

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

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

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

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

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Florida: Orange (FEMA Docket No. D–7535).	City of Ocoee	December 4, 2002; December 11, 2002; *The Orlando Sentinel*.	The Honorable S. Scott Vandergift, Mayor of the City of Ocoee, City Hall, 150 North Lakeshore Drive, Ocoee, Florida 34761.	March 12, 2003	120185 E
Florida: Leon (FEMA Docket No. D–7535).	City of Tallahassee.	December 17, 2002; December 24, 2002; *Tallahassee Democrat*.	The Honorable Scott Maddox, Mayor of the City of Tallahassee, City Hall, 300 Adams Street, Tallahassee, Florida 32301–1731.	March 25, 2003	120144 D
Georgia: Cobb (FEMA Docket No. D–7535).	City of Marietta ..	December 27, 2002; January 3, 2003; *Marietta Daily Journal*.	The Honorable Bill Dunaway, Mayor of the City of Marietta, 205 Lawrence Street, P.O. Box 3536, Marietta, Georgia 30061.	April 4, 2003	130226 D
Indiana: Allen (FEMA Docket No. D–7535).	City of Fort Wayne.	November 27, 2002; December 4, 2002; *The Journal Gazette*.	The Honorable Graham Richard, Mayor of the City of Fort Wayne, City-County Building, 1 Main Street, 9th floor, Fort Wayne, Indiana 46802–1804.	March 5, 2003	180003 E
Mississippi: Madison (FEMA Docket No. D–7535).	City of Ridgeland	January 2, 2003; January 9, 2003; *The Clarion-Ledger*.	The Honorable Gene F. McGee, Mayor of the City of Ridgeland, P.O. Box 217, Ridgeland, Mississippi 39158.	April 10, 2003	280110 D
New Hampshire: Grafton (FEMA Docket No. D–7535).	Town of Holderness.	December 5, 2002; December 12, 2002; *The Record Enterprise*.	Mr. Steve Huss, Chairman of the Town of Holderness, Board of Selectmen, Holderness Town Hall, P.O. Box 203, Holderness, New Hampshire 03245.	March 13, 2002	330059 C
New York: Erie (FEMA Docket No. D–7535).	Town of Hamburg.	December 12, 2002; December 19, 2002; *Hamburg Sun*.	Mr. Patrick H. Hoak, Hamburg Town Supervisor, 6100 South Park Avenue, Hamburg, New York 14075.	June 3, 2003	360244 D
North Carolina: Wake (FEMA Docket No. D–7537).	City of Raleigh ...	January 17, 2003; January 24, 2003; *The News & Observer*.	The Honorable Charles Meeker, Mayor of the City of Raleigh, P.O. Box 590, 222 West Hargett Street, Raleigh, North Carolina.	January 30, 2003	370243 E
Pennsylvania: York (FEMA Docket No. D–7535).	Township of Springettsbury.	December 20, 2002; December 27, 2002; *The York Dispatch*.	Mr. Robert J. Sabatini, Jr., Springettsbury Township Manager, 1501 Mt. Zion Road, York, Pennsylvania 17402.	March 28, 2003	421031 A
Pennsylvania: York (FEMA Docket No. D–7535).	Township of Spring Garden.	December 20, 2002; December 27, 2002; *The York Dispatch*.	Mr. Joseph F. Barrons, Spring Garden Township Manager, 558 Ogantz Street, York, Pennsylvania 17403.	March 28, 2003	420937 B

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Virginia: Fauquier (FEMA Docket No. D–7533).	Unincorporated Areas.	November 14, 2002; November 21, 2002; *Fauquier Citizen*.	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20186.	February 20, 2003	510055 A

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

Dated: June 18, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16290 Filed 6–26–03; 8:45 am]

BILLING CODE 6718–04–U

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–D–7541]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Interim rule.

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

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Director reconsider the changes. The modified elevations may be changed during the 90-day period.

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

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, P.E., FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2831.

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

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

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

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

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

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

The changes in base flood elevations are in accordance with 44 CFR 65.4.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

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

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

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Executive date of modification	Community number
Alabama: Jefferson.	City of Birmingham.	May 13, 2003; May 20, 2003; *The Birmingham News*.	The Honorable Bernard A. Kincaid, Mayor of the City of Birmingham, Birmingham City Hall, 710 North 20th Street, Birmingham, Alabama 35203.	May 6, 2003	010116 E
Connecticut: Fairfield.	Town of Greenwich.	May 6, 2003; May 13, 2003; *Greenwich Time*.	Mr. Richard Bergstresser, Town of Greenwich First Selectman, Town Hall, 101 Field Point Road, Greenwich, Connecticut 06830.	April 28, 2003	090008 C
Florida: Hillsborough.	City of Tampa	May 20, 2003; May 27, 2003; *St. Petersburg Times*.	The Honorable Dick A. Greco, Mayor of the City of Tampa, 306 East Jackson Street, First Floor, Tampa, Florida 33602.	May 12, 2003	120114 C
Georgia: Bartow	City of Adairsville	May 12, 2003; May 19, 2003; *Daily Tribune News*.	The Honorable Doyal Penson, Mayor of the City of Adairsville, 116 Public Square, Adairsville, Georgia 30103.	November 5, 2003	130235 F
Georgia: Chatham.	City of Savannah	May 22, 2003; May 29, 2003; *Savannah Morning News*.	The Honorable Floyd Adams, Jr., Mayor of the City of Savannah, P.O. Box 1027, Savannah, Georgia 31402.	May 15, 2003	135163 C
Pennsylvania: Lebanon.	Township of North Cornwall.	May 26, 2003; June 2, 2003; *Lebanon Daily News*.	Ms. Robin Getz, Lebanon County Planning and Zoning Department, 400 South Eight Street, Lebanon, Pennsylvania 17042.	September 1, 2003 ...	420576 C
Pennsylvania: Wyoming.	Township of Tunkhannock.	April 30, 2003; May 7, 2003; *The New Age Examiner*.	Mr. Randy L. White, Chairman of the Township of Tunkhannock Board of Commissioners, Township Building, 438 State Route 92 South, Tunkhannock, Pennsylvania 18657.	April 23, 2003	422206
Virginia: Rockbridge.	Unincorporated Areas.	May 21, 2003; *News Gazette*.	Mr. Donald G. Austin, Rockbridge County Administrator, 150 South Main Street, Lexington, Virginia 24450.	June 20, 2003	510205 C

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

Dated: June 18, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16289 Filed 6–26–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

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

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

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

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, P.E., FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate, has resolved any appeals resulting from this notification.

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

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

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

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

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

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

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

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

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

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

■ Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
MAINE	
Beals (Town), Washington County (FEMA Docket No. D–7556)	
Atlantic Ocean:	
At Alley Point, approximately 2,700 feet west of the intersection of Black Duck Cove Road and Carver Industry Road	*14
Approximately 800 feet southeast of the end of Black Field Road	*13
Maps available for inspection at the Beals Town Office, 11 Big Pond Road, Beals, Maine.	
PENNSYLVANIA	
College (Township), Centre County (FEMA Docket No. D–7548)	
Cedar Run:	
Approximately 60 feet upstream of the confluence with Spring Creek	*1,036
At upstream corporate limits	*1,078
Maps available for inspection at the College Township Municipal Building, 1481 East College Avenue, State College, Pennsylvania.	
Ferguson (Township), Centre County (FEMA Docket No. D–7558)	
Big Hollow Run:	
Approximately 700 feet downstream of Corl Street	*1,098
Approximately 525 feet downstream of Corl Street	1,099
Maps available for inspection at the Ferguson Township Municipal Building, 3147 Research Drive, State College, Pennsylvania.	
Harris (Township), Centre County (FEMA Docket No. D–7548)	
Cedar Run:	
Approximately 2,680 feet downstream of the railroad	*1,078
Approximately 125 feet upstream of Rock Hill Road	*1,114
Mackey's Run:	
At the confluence with Cedar Run	*1,105
Approximately 217 feet upstream of Rock Hill Road	*1,108
Spring Creek:	
At the corporate limits, coincident with Mary Elizabeth Street	*1,056
Maps available for inspection at the Harris Township Municipal Office, 224 East Main Street, Boalsburg, Pennsylvania.	
WEST VIRGINIA	
Oceana (Town), Wyoming County (FEMA Docket No. D–7556)	
Clear Fork:	
Approximately 330 feet downstream of corporate limits	*1,239
At upstream corporate limits	*1,292
Laurel Fork:	
At confluence with Clear Fork	*1,265
At the upstream of corporate limits	*1,278
Maps available for inspection at the Oceana Town Hall, Route 10, Cook Parkway, Oceana, West Virginia.	

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

Dated: June 18, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16291 Filed 6–26–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

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

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of

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

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, P.E., FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate, has resolved any appeals resulting from this notification.

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

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

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

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

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

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

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

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

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

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

■ Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
ILLINOIS	
St. Clair County (FEMA Docket No. D–7534)	
Silver Creek:	
Approximately 12,000 feet upstream of the confluence with Kaskaskia River	*396
Approximately 1.25 miles upstream of Lebanon Loyett Road	*451
St. Clair County (Unincorporated Areas), City of Mascoutah, City of Lebanon	
Hog River:	
At the confluence with Silver Creek	*418
Just upstream of Union Street	*418
St. Clair County (Unincorporated Areas), City of Mascoutah	
Loop Creek:	
At the confluence with Silver Creek	*418
Approximately 1.5 miles upstream of confluence with Silver Creek	*421
St. Clair County (Unincorporated Areas)	
Little Silver Creek:	
At the confluence with Silver Creek	*429
Approximately 1,500 feet upstream of confluence with Silver Creek	*432
St. Clair County (Unincorporated Areas)	
Ogles Creek:	
At the confluence with Silver Creek	*449
Approximately 265 feet upstream of Old Collinsville Road	*551
Wolf Branch:	
Approximately 1,700 feet upstream of confluence with Richland Creek	*500
Approximately 920 feet upstream of unnamed road	*538
Schoenberger Creek:	
Approximately at North 89th Street	*437
Approximately 1,500 feet upstream of State Route 161	*482
Kaskaskia River:	
At downstream corporate limits of Village of New Athens	*395
Approximately 0.78 mile upstream of Illinois Central Railroad crossing	*396
Village of New Athens	
Ponding Areas:	
Between Illinois Terminal Railroad and Camp Jackson Road	*404
Approximately 20 feet south of the intersection of Fox Meadow Lane and Paris Avenue	*404
Village of Cahokia	
At intersection of Sterling Place and Bermuda Avenue	*422
At intersection of Countryside Drive and Acorde Drive	*422
North of Harding Ditch, west of Black Lane	*418
Approximately 1,000 feet northwest of intersection with Interstate Route 64 and State Route 157	*422
Village of Caseyville	
Between Interstate 255 and State Route 157	*411
Approximately 600 feet southeast of the intersection of Pocket Road and State Route 15 and Missouri Avenue	*411
Village of Alorton	
At the intersection of Lake Drive and East Side Levee and Sanitary Canal District	*414
At the intersection of Belleview Avenue and North 80th Street	*414
Approximately 1,000 feet west of the intersection of State Route 15 (New Missouri Avenue and Harding Ditch)	*411

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
City of Centreville	
Approximately 1,000 feet west of Collinsville Road	*403
Village of Fairmont City	
Approximately 700 feet east of the intersection of St. Clair Avenue and Louisville and Nashville Railroad	*417
Village of Washington Park	
Approximately 300 feet south of the intersection of St. Clair Avenue and Louisville and Nashville Railroad	*414
Approximately 500 feet north of the intersection of St. Clair Avenue and Louisville and Nashville Railroad	*414
Village of Washington Park, City of East St. Louis	
Approximately 500 feet northwest of intersection of Summit Avenue and Michigan Avenue	*414
Approximately 300 feet northeast of the intersection of Louisville and Nashville Railroad and Kings Highway (State Route 50)	*415
Approximately 400 feet east of intersection of Ohio Avenue and North 62nd Street	*414
Intersection of Marybelle Avenue and North 70th Street	*418
Approximately 500 feet southwest of itnersection of State Street and Terrace Drive	*414
Approximately 600 feet south of intersection of St. Clair Avenue and North 47th Street	*414
City of East St. Louis	
North of Cahokia Canal, west of Madison Road east of Industrial Avenue	*407
Approximately 1,000 feet west of the intersection of Collinsville Road and Cookson Road	*403
At intersection of Site Road and Park Road	*411
Approximately 400 feet east of intersection of Pocket Road and Site Road	*411
At intersection of Park Drive and Major Street	*418
Approximately 800 feet west of intersection of Stowers Road and Bernia Street	*421
St. Clair County (Unincorporated Areas)	
At intersection of Watts Street and Brinson Drive	*418
Approximately 0.5 mile east of intersection of Watts Street and Brinson Drive	*418
At intersection of Caseyville Road and Bunkum Road	*418
At intersection of North 82nd Street and Bunkum Road	*422
At intersection of Rock Springs Road and McKinley Avenue	*415
St. Clair County (Unincorporated Areas), Village of Washington Park	
North of Old Cahokia Canal and south of County Road boundary	*403
St. Clair County (Unincorporated Areas), Village of Fairmont	
Approximately 1,000 feet northeast of the intersection of Mullins Creek Road and Prairie du Pont Creek	*418
South of Cahokia Canal, north of CSX Transportation and southwest of Old Cahokia Canal	*403
Approximately 1,000 feet east of the intersection of Rock Springs Road and St. Clair Avenue	*415
Approximately 750 feet west of the intersection of Lake Drive and North 88th Street	*414
Approxiamtely 400 feet south of the intersection of U.S. Route 255 County Route 3	*404
St. Clair County (Unincorporated Areas)	
Ponding Areas (along Harding Ditch):	
Approximately 700 feet southeast of the intersection of State Route 157 and Carol Street	*411
St. Clair County (Unincorporated Areas)	
Village of Alorton	
Maps available for inspection at the Alorton Village Hall, 4821 Bond Avenue, Alorton, Illinois.	
City of Belleville	
Maps available for inspection at the Belleville Department of Economic Development & Planning, 101 South Illinois Street, Belleville, Illinois.	
Village of Cahokia	
Maps available for inspection at the Cahokia Code Enforcement Department, 201 West 4th Street, Cahokia, Illinois	
Village of Caseyville	
Maps available for inspection at the Caseyville Village Hall, 10 West Morris Street, Caseyville, Illinois.	
City of Centreville	
Maps available for inspection at the Centreville City Hall, 5800 Bond Avenue, Centreville, Illinois.	
City of East St. Louis	
Maps available for inspection at the East St. Louis Municipal Building, 301 River Park Drive, East St. Louis, Illinois.	
Village of Fairmont City	
Maps available for inspection at the Fairmont City Village Hall, 2601 North 41st Street, Fairmont City, Illinois.	
City of Fairview Heights	
Maps available for inspection at the City of Fairview Heights Municipal Building, 10025 Bunkum Road, Fairview Heights, Illinois.	
City of Lebanon	
Maps available for inspection at the Lebanon City Hall, 312 West St. Louis Street, Lebanon, Illinois.	
City of Mascoutah	
Maps available for inspection at the Mascoutah City Hall, #3 West Main Street, Mascoutah, Illinois.	
Village of New Athens	
Maps available for inspection at the New Athens Village Hall, 905 Spotsylvania Street, New Athens, Illinois.	
St. Clair County (Unincorporated Areas)	
Maps available for inspection at the St. Clair County Department of Building and Zoning, 10 Public Square, Belleville, Illinois.	
Village of Swansea	
Maps available for inspection at the Swansea Government Center, 1400 North Illinois Street, Swansea, Illinois.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Village of Washington Park	
Maps available for inspection at the Washington Park Village Hall, 5218 North Park Drive, Washington Park, Illinois.	
INDIANA	
Allen County (FEMA Docket No. D–7534)	
Cedar Creek:	
Approximately 0.5 mile upstream of State Route 1	*779
Approximately 790 feet downstream of North County Line Road	*816
Allen County (Unincorporated Areas), Town of Leo-Cedarville	
Little Cedar Creek:	
At the confluence with Cedar Creek	*812
Approximately 0.41 mile upstream of Fitch Road	*819
Allen County (Unincorporated Areas)	
Maumee River:	
At a point approximately 0.3 mile downstream of Scipio Road	*725
At a point approximately 0.2 mile downstream of Bruick Road	*745
Allen County (Unincorporated Areas)	
St. Joseph River:	
At a point approximately 0.85 mile upstream of Halter Road	*779
Approximately 0.2 mile upstream of Roth Road	*788
Allen County (Unincorporated Areas), City of Fort Wayne	
St. Marys River:	
Approximately 530 feet upstream of Hoagland Road	*775
Approximately 0.5 mile upstream of Hoagland Road	*775
Allen County (Unincorporated Areas)	
Fairfield/Harber Ditch:	
Approximately 0.1 mile upstream of Norfolk Southern Railway	*763
Approximately 0.26 mile upstream of Lower Huntington Road	*773
Allen County (Unincorporated Areas), City of Fort Wayne	
Allen County (Unincorporated Areas)	
Maps available for inspection at the Allen County Planning Service Department, 1 East Main Street, Room 630, City/County Building, Fort Wayne, Indiana.	
City of Fort Wayne	
Maps available for inspection at the Fort Wayne Planning Department, 1 Main Street, 8th Floor, City/County Building, Fort Wayne, Indiana.	
Town of Leo-Cedarville	
Maps available for inspection at the Leo-Cedarville Town Office, 14435 State Road One, Leo, Indiana.	
MISSISSIPPI	
Rankin County	
Eutacutachee Creek:	
Approximately 250 feet from the confluence of Pelahatchie Creek	•333
Approximately 760 feet upstream of International Paper Road	•387
Rankin County (Unincorporated Areas)	
Eutacutachee Creek Tributary 1:	
At the confluence with Eutacutachee Creek	•360
Approximately 7,070 feet upstream of the confluence with Eutacutachee Creek	•383
Rankin County (Unincorporated Areas)	
Eutacutachee Creek Tributary 2:	
At the confluence with Eutacutachee Creek	•372
Approximately 4,763 feet upstream of the confluence with Eutacutachee Creek	•380
Rankin County (Unincorporated Areas)	
Eutacutachee Creek Tributary 3:	
At the confluence with Eutacutachee Creek	•360
Approximately 0.7 mile upstream of Rankin Road	•387
Rankin County (Unincorporated Areas)	
Eutacutachee Creek Tributary 4:	
At the confluence with Eutacutachee Creek	•355
Approximately 100 feet upstream of Gulde-Shiloh Road	•390
Rankin County (Unincorporated Areas)	
Prairie Branch Tributary 1:	
At the confluence with Prairie Branch Canal	•279
Approximately 800 feet upstream of U.S. Highway 475	•284
City of Flowood	
Pelahatchie Bay Unnamed Tributary:	
At Pearl River Valley Water Supply District corporate limits	•307
Approximately 510 feet upstream of Pearl River Valley Water Supply District corporate limits	•307
Rankin County (Unicorporated Areas)	
Pearl River Tributary 2:	
At upstream side of Old U.S. Highway 49	÷ 270
Approximately 0.4 mile upstream of U.S. Highway 49	÷ 270
City of Richland	
Woodrun Creek:	
Approximately 175 feet downstream of Interstate Route 20	÷ 337
Approximately 125 feet upstream of Mississippi Salvage Road	÷ 360
City of Brandon, City of Pearl	
Terrapin Skin Creek:	
Approximately 0.5 mile downstream of North Deer Ridge	÷ 371
Approximately 0.7 mile upstream of North Deer Ridge	÷ 395
Rankin County (Unincorporated Areas), City of Brandon	
Hog Creek:	
Approximately 650 feet upstream of State Route 475	÷ 371
Approximately 200 feet upstream of State Highway 468	÷ 395
City of Flowood	
Richland Creek:	
Approximately 1.4 miles upstream of State Highway 471	÷ 344
Approximately 1.0 mile upstream of U.S. Highway 80	÷ 373

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Rankin County (Unincorporated Areas), City of Brandon	
Pelahatchie Creek Tributary 1:	
Just upstream of State Route 43	÷ 351
Approximately 375 feet upstream of Ragan Road	÷ 370
Town of Pelahatchie	
Pearl River Tributary 3:	
Approximately 3,000 feet downstream of U.S. Highway 25	• 282
Approximately 150 feet upstream of Flowood Drive	• 282
City of Flowwod	
Rankin County (Unincorporated Areas)	
Maps available for inspection at the Rankin County Building, 211 East Government, Brandon, Mississippi.	
City of Brandon	
Maps available for inspection at the Brandon City Hall, 201 North College Street, Brandon, Mississippi.	
City of Flowood	
Maps available for inspection at the Flowood City Hall, 2101 Airport Road, Flowood, Mississippi.	
City of Pearl	
Maps available for inspection at the Pearl City Hall, 2420 Old Brandon Road, Pearl, Mississippi.	
Town of Pelahatchie	
Maps available for inspection at the Pelahatchie City Hall, 705 Second Street, Pelahatchie, Mississippi.	
City of Richland	
Maps available for inspection at the Richland City Hall, 380 Scarborough Street, Richland, Mississippi.	

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

Dated: June 18,2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16292 Filed 6–26–03; 8:45 am]

BILLING CODE 6718–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

45 CFR Part 146

[CMS–2152–F]

RIN 0938–AL42

Amendment to the Interim Final Regulation for Mental Health Parity

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Amendment to interim final regulation.

SUMMARY: This document contains an amendment to the interim final regulation that implements the Mental Health Parity Act (MHPA) to conform the sunset date of the regulation to the sunset date of the statute under legislation passed by the 107th Congress.

DATES: *Effective date:* The amendment to the regulation is effective July 28, 2003.

Applicability dates: Under the amendment, the requirements of the MHPA interim final regulation apply to group health plans and health insurance issuers offering health insurance coverage in connection with a group health plan during the period commencing July 28, 2003 through December 30, 2003. Under the extended sunset date, MHPA requirements do not apply to benefits for services furnished on or after December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Dave Mlawsky, Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, at 1–877–267–2323, ext. 61565.

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SUPPLEMENTARY INFORMATION:

I. Background

The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (Pub. L. 104–204). MHPA amended the Public Health Service Act (PHS Act) and the Employee Retirement Income Security Act of 1974 (ERISA) to provide for parity in the application of annual and lifetime dollar limits on mental health benefits with dollar limits on medical/surgical benefits. Provisions implementing MHPA were later added to the Internal Revenue Code of 1986 (Code) under the Taxpayer Relief Act of 1997 (Pub. L. 105–34).

The provisions of MHPA are set forth in Title XXVII of the PHS Act, Part 7 of Subtitle B of Title I of ERISA, and Chapter 100 of Subtitle K of the Code. The Secretaries of Health and Human Services, Labor, and the Treasury share jurisdiction over the MHPA provisions. These provisions are substantially similar, except as follows:

- The MHPA provisions in the PHS Act generally apply to health insurance issuers that offer health insurance coverage in connection with group health plans and to certain State and local governmental plans. States, in the first instance, enforce the PHS Act for issuers. Only if a State does not substantially enforce the MHPA provisions under its insurance laws will the Department of Health and Human Services enforce the provisions, through the imposition of civil money penalties. Moreover, no enforcement action may be taken by the Secretary of Health and Human Services against any group health plan except certain State and local governmental plans.
- The MHPA provisions in ERISA generally apply to all group health plans other than governmental plans, church plans, and certain other plans. These provisions also apply to health insurance issuers that offer health insurance coverage in connection with such group health plans. Generally, the Secretary of Labor enforces the MHPA provisions in ERISA, except that no enforcement action may be taken by the Secretary against issuers. However, individuals may generally pursue actions against issuers under ERISA and, in some circumstances, under State law.
- The MHPA provisions in the Code generally apply to all group health plans other than governmental plans, but they

do not apply to health insurance issuers. A taxpayer that fails to comply with these provisions may be subject to an excise tax under section 4980D of the Code.

II. Overview of MHPA

The MHPA provisions are set forth in section 2705 of the PHS Act, section 712 of ERISA, and section 9812 of the Code. MHPA applies to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits. MHPA's original text included a sunset provision specifying that MHPA's provisions would not apply to benefits for services furnished on or after September 30, 2001. On December 22, 1997, the Departments of Health and Human Services, Labor, and the Treasury issued interim final regulations under MHPA in the **Federal Register** (62 FR 66931). The interim final regulations included this statutory sunset date.

On January 10, 2002, President Bush signed H.R. 3061 (Pub. L. 107–116), the 2002 Appropriations Act for the Departments of Labor, Health and Human Services, and Education (''Appropriations Act'').[1] This legislation extended MHPA's original sunset date under the PHS Act, ERISA, and the Code, so that MHPA's provisions in all three statutes would not sunset until December 31, 2002. The Appropriations Act did not specifically address whether MHPA's provisions in any of the three statutes applied retroactively during the ''gap'' that began upon the expiration of the original legislation (September 30, 2001) and ended on the day before enactment of the Appropriations Act (January 9, 2002).

On March 9, 2002, President Bush signed H.R. 3090 (Pub. L. 107–147), the Job Creation and Worker Assistance Act of 2002 (''Job Creation Act''). That legislation amended section 9812 of the Code (the mental health parity provisions), but did not amend the corresponding MHPA provisions in the PHS Act or ERISA. The Job Creation Act extended the sunset date under the Code to December 31, 2003. However, for services furnished ''on or after September 30, 2001, and before January 10, 2002'' it specifically precluded retroactive application of the Code's MHPA provision. In other words, the Code's provisions would not apply to services furnished during the ''gap'' between the original sunset date and the enactment of the Code's sunset extension in the Appropriations Act.

Because the Job Creation Act did not amend the MHPA provisions of the PHS Act or ERISA, we conclude that the MHPA provisions of the PHS Act apply during the ''gap,'' based on language in the Joint Committee on Taxation's technical explanation of H.R. 3090, the underlying bill that became the Job Creation Act. The Joint Committee report essentially explained that H.R. 3090 was undoing that part of the Appropriations Act that had ''restored'' the Code's MHPA provisions retroactively to September 30, 2001. Since the Appropriations Act made identical changes to the MHPA provisions of the Code, the PHS Act, and ERISA, that observation made by the Joint Committee on Taxation report clearly supports the conclusion that the Appropriations Act had ''restored'' the MHPA provisions of the PHS Act and ERISA as well. In other words, because the MHPA provision contained in the PHS Act was made retroactive by the Appropriations Act, and was not amended by the Job Creation Act, the PHS provisions were ''restored'' retroactively to September 30, 2001.

On December 2, 2002, President Bush signed H.R. 5716 (Pub. L. 107–313), the Mental Health Parity Reauthorization Act of 2002. This legislation further extends MHPA's sunset date under the PHS Act and ERISA so that MHPA's provisions will apply to any services furnished before December 31, 2003. The new legislation does not contain any language that conflicts with the technical explanation of the Joint Committee on Taxation, described above, and therefore does not change our conclusion that the PHS Act's MHPA provisions are retroactive to September 30, 2001.

These various amendments have not altered MHPA's scope. It continues to apply to a group health plan (or health insurance coverage offered by issuers in connection with a group health plan) that provides both medical/surgical benefits and mental health benefits.[2] As a result of the statutory amendments, and to assist employers, plan sponsors, health insurance issuers, and workers, the Department is publishing this amendment to the interim final regulations, conforming the regulatory sunset date to the new statutory sunset date. The Department is making the effective date of this amendment to the interim final regulations effective as of July 28, 2003. The Department is also making conforming changes extending the duration of the increased cost exemption to be consistent with the new sunset date.

Since the extension of this sunset date is essentially self-implementing, this amendment to the MHPA regulations is published on an interim final basis under section 2792 of the PHS Act.

This amendment to the interim final regulations is adopted under the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as added by HIPAA (Pub. L. 104–191), and amended by MHPA (Pub. L. 104–204, as amended by Pub. L. 107–116, and Pub. L. 107–313).

III. Regulatory Impact Statement

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). Pursuant to the terms of the Executive Order, it has been determined that this action is not a ''significant regulatory action'' within the meaning of the Executive Order. Rather, it is an amendment to the 1997 interim final

[1] During the 107th Congress, legislation was passed by the Senate to substantively amend and expand the provisions of MHPA already in place. This legislation was offered as an amendment to the provisions of H.R. 3061. The Conference Report accompanying the underlying provisions of H.R. 3061 states that instead of the amendment proposed by the Senate, the amendment to MHPA contained in H.R. 3061 extends the original sunset date of MHPA, so that MHPA's provisions will not apply to benefits for services furnished on or after December 31, 2002. H.R. Rep. 107–342, at 170 (2001).

[2] The parity requirements under MHPA, the interim regulations, and the amendment to the interim regulations do not apply to any group health plan (or health insurance coverage offered in connection with a group health plan) for any plan year of a small employer. The term ''small employer'' is defined as an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

regulations that makes no substantive changes to those regulations, and merely extends the regulatory sunset date to conform to the new statutory sunset date added by Pub. L. 107–313. Because it is not a major rule, we are not required to perform an assessment of the costs and savings.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This rule will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final rule and have determined that it will not have a substantial effect on State or local governments.

We have reviewed this rule and determined that, under the provisions of Pub. L. 104–121, the Contract with America Act, it is not a major rule.

List of Subjects in 45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 45 CFR part 146 as follows:

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 1. The authority citation for part 146 is amended to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg-63, 300gg-91, and 300gg-92), as added by HIPAA (Pub. L. 104–191), and amended by MHPA (Pub. L. 104–204, as amended by Pub. L. 107–116, and Pub. L. 107–313), NMHPA (Pub. L. 104–204), and WHCRA (Pub. L. 105–277), sec. 102(c) of HIPAA.

§ 146.136 [Amended]

■ 2. In § 146.136, the following amendments are made:

■ a. The last sentence of paragraph (f)(1) is amended by removing the date ''September 30, 2001'' and adding in its place the date ''December 31, 2003.''

■ b. Paragraph (g)(2) is amended by removing the date ''September 30, 2001'' and adding in its place the date ''December 31, 2003.''

■ c. Paragraph (i) is revised to read as follows:

§ 146.136 Parity in the application of certain limits to mental health benefits.

* * * * *

(i) *Sunset.* This section does not apply to benefits for services furnished on or after December 31, 2003.

Dated: December 23, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: January 21, 2003.

Tommy G. Thompson,

Secretary, Department of Health and Human Services.

[FR Doc. 03–16054 Filed 6–26–03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 596

[Docket No. NHTSA–03–15438]

RIN 2127–AH99

Federal Motor Vehicle Safety Standards; Child Restraint Systems, Child Restraint Anchorage Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule, response to petitions for reconsideration.

SUMMARY: This document responds to the remaining outstanding issues raised by petitions for reconsideration of the agency's March 1999 final rule establishing Federal Motor Vehicle Safety Standard No. 225, *Child Restraint Anchorage Systems,* and of the agency's previous responses to petitions, published in August 1999 and July 2000. Key issues pertain to: The strength requirement for the tether anchorage and for the lower anchorages of child restraint anchorage systems; how the test for the strength requirement is conducted; how the lower anchorage bars must be configured and marked; where the bars must be located relative to the vehicle seat bight; where tether anchorages must be located relative to seating positions within a vehicle; the installation of child restraint anchorage systems in vehicles with advanced air bags; and whether to require backless booster seats to be equipped with attachments for connecting to the lower anchors of a child restraint anchorage system.

DATES: The amendments made in this rule are effective August 26, 2003. If you wish to petition for reconsideration of this rule, your petition must be received by August 11, 2003.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Michael Huntley, Office of Crashworthiness Standards, NHTSA (telephone 202–366–0029).

For legal issues: Deirdre R. Fujita, Office of the Chief Counsel, NHTSA (telephone 202–366–2992).

You can reach both of these officials at the National Highway Traffic Safety

Administration, 400 Seventh St., SW., Washington, DC 20590.

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I. Introduction

a. Overview of This Final Rule

This final rule responds to petitions for reconsideration of a final rule (64 FR 10786; Docket No. 98–3390) that was published on March 5, 1999 and that established a Federal Motor Vehicle Safety Standard (FMVSS) for child restraint anchorage systems (FMVSS No. 225, 49 CFR § 571.225). This is the third and final document responding to the petitions. The first two responses to petitions for reconsideration were published August 31, 1999 (64 FR 47566; Docket No. 99–6160), and July 31, 2000 (65 FR 46628; Docket No. 7648). A detailed summary of the petitions and the agency's responses thereto can be found in the ''overview'' section of the July 2000 final rule (65 FR at 46629).

This final rule resolves the issue of the appropriateness of the 15,000 N strength requirement for tether anchorages (S6.3 and S8.1 of FMVSS No. 225) and the 11,000 N strength requirement for the lower anchorages (S9.4.1(a)). Those strength requirements are unchanged from the March 1999 final rule. However, this final rule provides vehicle manufacturers an additional year of lead-time for the few vehicle models that might have to be redesigned to meet the requirements.

In this document, we are replacing the displacement limit of 125 millimeters (mm) of the 1999 final rule with different performance criteria for the performance of the tether anchorage, and slightly increasing the displacement limit for tests of the lower anchorages. In response to petitions for reconsideration of the length of time specified in the rule for the application of the required loads to the lower anchorages, we are reducing the time from 10 seconds to 1 second. We also address other issues concerning the installation and testing of anchorage systems, such as the configuration, location and marking of the lower bars, and the location of tether anchorages in sport utility vehicles (SUVs).

Finally, we deny a petition for reconsideration from Cosco, Inc., to exclude backless child restraint systems from the requirement in Standard No. 213 that the restraint systems have components that attach to a vehicle's child restraint anchorage system.

b. Background

1. March 1999 Final Rule

On March 5, 1999, NHTSA published a final rule establishing Federal Motor Vehicle Safety Standard No. 225, *Child Restraint Anchorage Systems* (64 FR 10786, docket 98–3390, notice 2). The rule required vehicle manufacturers to equip vehicles with new child restraint anchorage systems that are standardized and independent of the vehicle seat belts.

Each new system has two lower anchorages and one tether anchorage. Each lower anchorage includes a rigid round rod or bar onto which the connector of a child restraint system can be attached. The bars are located at the intersection of the vehicle seat cushion and seat back. The upper anchorage is a fixture to which the top tether strap of a child restraint system is to be hooked. (For convenience, this document refers to the child restraint anchorage system as the ''LATCH'' system. LATCH, an acronym for ''Lower Anchors and Tethers for Children,'' was a term developed by manufacturers and retailers in educating the public on the availability and use of the new system.) Standard No. 225 required vehicle manufacturers to begin phasing-in the tether anchorage of the LATCH system in the production year beginning September 1, 1999, with full implementation beginning September 1, 2000. Manufacturers were required to begin phasing-in the lower anchorages in the production year beginning on September 1, 2000, with full implementation beginning September 1, 2002.[1]

A number of manufacturers submitted petitions for reconsideration of various aspects of the new standard, including the strength requirements for the anchorage system and the test procedures to be used by NHTSA to test for compliance with the requirements.[2] Some of the vehicle manufacturers believed that there was no safety need for requirements as stringent as those

[1] The March 1999 final rule specified that, beginning September 1, 1999, 80 percent of a manufacturer's passenger cars were required to be equipped with tether anchorages, while all vehicles covered by the standard (including light trucks, vans, and multipurpose passenger vehicles with gross vehicle weight rating (GVWR) of 8,500 or less and buses with a GVWR of 10,000 pounds or less) are required to comply with the requirements by September 1, 2000. The final rule specified a 3-year phase-in period for the lower vehicle anchorages, which required 20 percent of each manufacturer's fleet to be equipped with compliant lower anchorages beginning September 1, 2000, 50 percent beginning September 1, 2001, and 100 percent beginning September 1, 2002.

[2] We received petitions from the Alliance of Automobile Manufacturers (''Alliance'') (whose members were BMW, DaimlerChrysler, Ford, General Motors, Mazda, Nissan, Toyota, Volkswagen, Volvo, Fiat and Isuzu), and from individual petitioners Honda, Volkswagen, Porsche, DaimlerChrysler, General Motors, Mitsubishi, the National Truck Equipment Association, Kolcraft, E–Z–On Products, Cosco, Toyota, Ford, the Coalition of Small Volume Automobile Manufacturers, and Indiana Mills and Manufacturing.

specified in the rule (*i.e.*, for a 15,000 N strength requirement for tether anchorages (S6.3 and S8.1) and a 11,000 N strength requirement for the lower LATCH anchorages (S9.4.1(a)). They indicated that they could provide tether and lower anchorages meeting less-stringent Canadian requirements for the tether anchorage and less-stringent requirements for lower anchorages set forth in a draft standard being developed by a working group of the International Organization for standardization (ISO), by the compliance dates set forth in the March 1999 final rule, but they could not provide tether and lower anchorages meeting the more-stringent strength requirements established in that rule by those dates. The Alliance suggested that the agency either delay the effective date of the rule or adopt the Canadian requirements for the tether anchorage and the draft ISO requirements for the lower anchorages.

2. August 1999 Response To Petitions

In response to concerns of several of the petitioners about the lead-time for and the stringency of the anchorage strength and other requirements in the March 1999 final rule, NHTSA published a final rule on August 31, 1999 (64 FR 47566, docket 99–6160). Among other things, the August 1999 rule permitted vehicle manufacturers to meet alternative requirements during an initial several year period. Until September 1, 2001, manufacturers were permitted to meet either the requirements in the March 1999 final rule or the less-stringent Canadian requirements for tether anchorages. Until September 1, 2002, manufacturers were permitted to meet the requirements for the lower anchorages consistent with those set forth in the draft ISO standard.

NHTSA balanced the benefits associated with vehicle manufacturers providing the new tether and lower anchorages, albeit ones meeting the less-stringent Canadian and draft ISO requirements, in accordance with the original schedule against the possible consequences of not providing for that alternative means of compliance. We concluded that, on balance, safety would be best served if the Canadian and draft ISO requirements were allowed as a compliance option for an interim period. We determined that the early availability of tether anchorages, even ones meeting the Canadian requirements, would promote safety by increasing the likelihood that parents will attach a top tether on a child restraint system. Compared to an untethered child restraint, a tethered child restraint offers improved protection against head impact in a crash. A tether anchorage that complies with the Canadian strength requirement will offer a level of safety that is significantly better than the one that would exist with no tether anchorage at all. We similarly concluded that lower anchorages meeting the draft ISO requirements would provide safety benefits for parents who have difficulty attaching a child restraint correctly in a vehicle or whose vehicle seats are incompatible with child restraints. Thus, the agency's adoption of these interim compliance alternatives made it possible to begin reaping the benefits of LATCH systems sooner than would have been possible under the March 1999 final rule.

The August 1999 final rule also responded to other issues. With regard to some issues, such as some of the technical ones addressing specifics on how an anchorage is to be tested and limiting the information that manufacturers have to provide in vehicle owners manuals on LATCH systems, the agency granted requests to amend the March 1999 rule. For some of the other issues, the agency denied or partially granted the petitions for reconsideration, which prompted the Alliance, Ford, Volkswagen, and Keiper GmbH & Co. (Keiper) to petition the agency to reconsider the decisions based on new information.

3. July 2000 Response to Petitions

On July 31, 2000 (65 FR 46628, docket 7648), NHTSA published a final rule that extended, until August 31, 2004, the period during which vehicle manufacturers may meet the Canadian and draft ISO requirements. The final rule also addressed other issues concerning the installation of child restraint anchorage systems in vehicles and how those systems are tested in the agency's compliance tests. Those issues involved the configuration requirements for the bars set forth in the ISO provisions of S15 of Standard No. 225; how the agency determines the H-point of a seating position when evaluating whether a tether anchorage is properly located in a seating position; what the dimensions of the child restraint fixture (''CRF'') should be; and the applicability of the standard to small manufacturers, to manufacturers of vehicles that cannot meet the pitch, roll and yaw requirements with the child restraint fixture installed, and to manufacturers of vehicles temporarily excepted from the requirement of FMVSS No. 208, ''Occupant Crash Protection,'' to provide an air bag at the front passenger seating position.

II. The Remaining Issues

The remainder of this document addresses the remaining issues that were raised in petitions for reconsideration of the aforementioned final rules.

a. Installation of Anchorage Systems (S4)

1. Number of Tether Anchorages and Where They Should Be Located

i. Number of Tether Anchorages. The March 1999 final rule required that vehicles with three or more rear designated seating positions must have tether anchorages at not less than three positions in these vehicles. This requirement applied to passenger cars, as well as to multipurpose passenger vehicles (''MPVs'').[3] NHTSA required the third tether anchorage to improve the means of attaching child restraints at a center rear seating position. 64 FR at 10803. Because Standard No. 225 requires that the lower anchorages of a LATCH system be 280 mm apart, most vehicles do not have a rear seat that is wide enough to accommodate anchorages in the center seating position and in an adjacent outboard position. Accordingly, manufacturers will probably install LATCH systems in the two outboard seating positions, and not in a center and an outboard position. However, many parents prefer placing child restraints in a center rear seating position, believing, correctly, that such a position is generally safer for a child, particularly with respect to the risk of injury if the child were in an outboard position on the side that was struck in a side impact.[4] A child restraint installed properly in a center seating position and using the vehicle's belt system and a top tether will perform comparably to a child restraint installed using the three-point LATCH system. The tether anchorage in both systems provides safety benefits to the child. Thus, the requirement for the third tether anchorage improves the position that many parents will want to use for their child (the center seating position).

Some manufacturers objected to the requirement for a third tether anchorage in MPVs with five or fewer designated seating positions. (For convenience,

[3] AMultipurpose passenger vehicle'' is defined in 49 CFR § 571.3 as Aa motor vehicle with motive power, except a low-speed vehicle or trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.''

[4] It is probably easier for most parents to install two child restraints on a vehicle seat bench if the two LATCH systems were on the outboard positions than if they were side-by-side (in the center position and on an adjacent outboard position).

since most MPVs with five or fewer seating positions are sport utility vehicles (SUVs), we will refer to these MPVs as ''SUVs''.) In its petition for reconsideration of NHTSA's requirement for three anchorages, the Alliance stated that Transport Canada has required only two tether anchorages for SUVs, because of manufacturers' submissions to Transport Canada ''which stated that the seating configurations and vehicle design constraints made the mandate of three tether anchors in the rear seat impracticable for such vehicles.'' The Alliance also stated that some manufacturers state in their owner's manual not to install child restraints in the center position because those seating positions tend to be smaller in area. Thus, the Alliance asked that we amend our standard to require only two tether anchorages for SUVs with 5 or fewer seating positions.

NHTSA denied this request in the agency's August 1999 response to petitions for reconsideration (64 FR at 47570). The agency noted that manufacturers had not submitted any information to NHTSA that justified why SUVs, as a vehicle class, should have fewer tether anchorages than passenger cars or why a third tether anchor in the rear seat of these vehicles was impracticable. Further, the agency noted that SUVs were used as passenger-carrying vehicles, were increasing in popularity, and were used to carry children. Based on this information, NHTSA denied the request of the petitioners and retained the requirement for three tether anchorages. However, to provide manufacturers with lead-time to design and manufacture SUVs with three anchorages, the agency permitted manufacturers the option of installing only two tether anchorages during the interim period during which they could meet Transport Canada's requirements for tether anchorages. The interim period ends August 31, 2004.

The Alliance petitioned for reconsideration of this denial (NHTSA 99–6160–6). It stated that some SUV vehicle owner's manuals state that the center seat is not recommended for child restraint installation because the seat does not meet the provisions of the Society of Automotive Engineers (SAE) Recommended Practice J1819, ''Securing Child Restraint Systems in Motor Vehicle Rear Seats,'' due to a small center seating area. The petitioner stated that installing the third tether anchorage, and providing step-by-step instructions in the owner's manual for using the tether anchorage as required by a related provision of Standard No. 225, would be in direct conflict with the recommendation not to install a child restraint in that seating position. It said that ''(c)ustomer confusion and dissatisfaction will result.''

NHTSA has decided not to change its requirement that three tether anchorages must be installed in all passenger vehicles with three or more rear designated seating positions (including SUVs). Currently, SUVs comprise about half of the new vehicles purchased each year and have increased in popularity as family vehicles. While some child restraints might not be able to fit in the small center seating position on some of the smaller SUVs, some other child restraints might be able to fit the position, especially if a parent is intent on making it fit. Many parents are likely to try very hard to install child restraints in the center rear seating position, as the center seat is generally safer than the outboard positions in nearside side impacts. Tethering a child restraint in those narrow center seating positions will better secure it in a crash. Also, the center rear seating position on larger SUV's with 5 designated seating positions could readily fit a child restraint. Thus, this document retains the requirement for three tether anchorages.

ii. Location of Tether Anchorages. The March 1999 final rule also specified that, in each vehicle with a rear designated seating position other than an outboard designed seating position, at least one tether anchorage must be at such a designated seating position. The Alliance petitioned for reconsideration of that requirement as it applied to MPVs with six or more designated seating positions. The petitioner stated that the requirement was not practical for some of these MPVs because ''a child restraint installed in the center position will block ingress/egress for the third row outboard seating position in certain vehicles.'' In its August 1999 response NHTSA denied the request, explaining its reasons, set forth in the preceding section, for requiring a tether in a center seating position. The agency also noted that, ''As for practical problems with blocking ingress/egress for the third row, we believe the tether can be located to avoid such blockage. For example, the tether anchor could be attached to the ceiling or to the back of the lower part of the seat structure.'' 64 FR at 47570, footnote 9.

The Alliance petitioned for reconsideration of this denial (Docket 99–6160–6). The petitioner explained that it was referring to two types of vehicles. For both vehicles, the petitioner believed that the center seating position was not likely to be the position where a child restraint would be fastened and that the center position on these vehicles should therefore be excluded from having a tether anchorage.

First were large SUVs that had three or more rows of seats, such as the seven- and eight-passenger versions of DaimerChrysler's Dodge Durango. These vehicles feature a 3-passenger second row (split 40/20/40 percent) and a 2-passenger third row. The second row seats occupy the full width of the vehicle. No aisle is provided for access to the rear seats, which is obtained by folding the seatback of the outboard 40% seat and ''tumbling'' the folded seat forward and out of the way. The petitioner explains that the only center seating position is the 20% portion of the second row. It believes that this seating position is not suited to a child restraint, because a restraint in the position overlaps the two inboard edges of the outboard seats, preventing them from folding to allow access to the rear seating positions. A child restraint in that position would also block the belt buckles in the outboard seating positions, so passengers seated outboard would not be able to buckle their seat belts. The second type of vehicle was a vehicle in which there is a middle seating position whose seatback is divided into two or more sections that may be folded independently of each other. The division between two sections lies substantially along the seating reference plane of the middle seating position.

NHTSA has decided to deny this request. The March 1999 final rule required a tether anchorage at a center seating position on vehicles that have a center rear seating position to address the concerns of commenters to the NPRM that such a seating position should have an improved means of attaching a child restraint. (As noted above, the rule does not require that a LATCH system be installed in a center position, because some vehicle rear seats might not be wide enough to accommodate two LATCH systems side-by-side.) NHTSA continues to believe that many parents will want to place their child in a center seating position, and will do so on a vehicle such as the Durango, particularly if the family is transporting just one child. A child is generally safer in the center seat than in an outboard position closest to a side impact. Equipping the center position with a tether anchorage provides these parents the option of using the center position and ensures that if the position were used, the benefits of a tether would be available to the restrained child. Without a tether anchorage at that

position, optimal protection to the child could not be realized.

The petitioner's request is also denied with respect to vehicles of the second type described above, with a center seating position that has a seat back that folds along the vertical longitudinal centerline of the seating position. The zone in which the tether anchorage may be located within the vehicle is sufficiently large to give vehicle manufacturers flexibility in designing and locating anchorages that are practical. Current MPVs incorporate designs that locate tether anchorages in a variety of places, such as on the floor or the ceiling, which would avoid the petitioner's concerns about a tether strap sliding between a split seat back in the third row of seats.

In its petition for reconsideration, the Alliance asked for clarification that providing a user-ready tether anchorage at a seat that can be used at either an outboard or a non-outboard (*i.e.*, center) seating position meets the subject requirement. The petitioner stated that some vehicles are now equipped with laterally adjustable vehicle seats that can be moved from an outboard position to a non-outboard position. The petitioner wanted to know how the agency would position such a movable seat in determining compliance with the requirement that a tether anchorage must be provided in a center seating position.

In response, NHTSA is adding regulatory text (S4.6) to specify that if a vehicle has a laterally adjustable seat capable of being used in a rear center position, but does not otherwise have a seat that could be regarded as a rear center seat, that adjustable seat will be considered by the agency to be a rear center seat and must be equipped with a tether anchorage usable when the seat is in the center position. The agency will put the adjustable seat in the center position because we believe many consumers will use it there when using a child restraint. On a related point, NHTSA is not prohibiting manufacturers from having removable seats, even where the removable seat is equipped with a required LATCH or tether anchor system. For example, manufacturers will be able to design minivans and SUVs such that the last row can be readily removable (and readily replaceable) by the consumer, even if the seat contained one of the required LATCH systems and the vehicle, without the seat, no longer had two full LATCH systems. The agency does not see a safety need to restrict the ability of the consumer to remove the seats. If the vehicle seat is readily replaceable, the consumer will have available the LATCH system when the anchorage system is needed. The agency has added language to S4.6 of the standard to make this clarification.

2. Where There Is An Air Bag

The March 1999 final rule contained requirements that implemented the agency's policies about where children should be restrained in vehicles. If the vehicle has a rear designated seating position, a LATCH system should be placed there. This is because children are safer seated in a rear seat than in the front seat, regardless of whether there is an air bag for the front passenger seating position. If there is no rear seat, the question of whether a LATCH system should be installed at the front passenger designated seating position is answered by whether that position is equipped with an air bag that cannot be turned off with a manual on-off switch. If an air bag is present that cannot be turned off, that seating position is unsuitable for a LATCH system. Some consumers may believe that the presence of a LATCH system signals that the designated seating position is an appropriate one in which a child restraint may be installed, which is incorrect. For that reason, the standard prohibits manufacturers from equipping the front passenger seating position with a LATCH system when an air bag on-off switch is not present. (A tether anchorage is required for the seating position, however. A tether anchorage can be less conspicuous than a LATCH system and does not encourage users to install child restraints at the seating position in the way that a LATCH system would. A tether anchorage is required at the position so that, if a forward-facing child restraint were installed there, the restraint could be tethered tightly against the seat and as far as possible from the air bag.)

Ford petitioned the agency to rescind the prohibition against installing a LATCH system in a front seating position equipped with an air bag that lacks a manual on-off switch. The petitioner believed that vehicle manufacturers should have the flexibility to install lower anchors in front seats voluntarily. GM petitioned NHTSA to allow voluntary installation of a LATCH system ''in any passenger seating position even when an air bag on/off switch or automatic suppression is not present. We believe that adequate warnings are given to consumers to ensure a rear facing child seat will not be placed in front of an air bag.''

These petitions are denied. They are denied to the extent that they seek to allow manufacturers to install LATCH systems anywhere in the vehicle. NHTSA continues to believe that consumers would erroneously infer from the presence of a LATCH system in a front passenger seating position that the position can and should be used with a child restraint. An air bag that is not turned off could inflict serious or fatal injuries to a child in a rear-facing child restraint in the front passenger seating position. In addition, children are safer in rear seating positions. (Our analysis shows that rear seats are 26 percent safer against fatality for all children age 4 and under.) Thus, they should be restrained in rear seats. For these reasons, the standard will continue to require LATCH systems to be installed at rear seating positions, if such positions exist on the vehicle, and to disallow LATCH systems in front seating positions unless the vehicle is equipped with an air bag on-off switch.

The petitions are also denied concerning the installation of LATCH systems in a vehicle whose front passenger seating position has an air bag system certified to new requirements in Standard No. 208 (*i.e.*, one that suppresses the air bag when it senses the presence of the infant, 3-year-old or 6-year-old child dummy) and that lacks a rear seat. Such a vehicle is different from a vehicle with no rear seat whose front passenger seating position is equipped with an air bag and an air bag on-off switch. With the front passenger air bag disabled by an air bag on-off switch, there is not any risk of injury to children from the air bag. It is too early to know if this is the case for vehicles with no rear designated seating positions and an advanced air bag certified to the new Standard No. 208 requirements. The agency does not believe that there is sufficient experience with air bag deactivation technology at this time. In fact, the allowance of on-off switches until 2012 was to allow manufacturers time to perfect the suppression and low risk deployment systems in all their vehicles, and provide additional time to assure that the advanced systems work properly (65 FR 30722). Thus, we have concluded that vehicles with no rear designated seating positions and an advanced air bag certified to new Standard No. 208 will not be allowed to have a LATCH system installed at a front passenger seating position unless the vehicle is equipped with an air bag on-off switch. We will revisit this matter in several years after an assessment of the technology and its performance.

For the same reasons, the petitions are denied to the extent concerning the installation of LATCH systems in a vehicle whose front passenger seating position has an advanced air bag system

and that has a small rear seat (*i.e.*, a rear seat meeting the conditions in S4.5.4.1(b) of Standard No. 208).

b. Configuration of the Lower Bars

The July 31, 2000 response to petitions for reconsideration deleted certain requirements that were specified in S15 of Standard No. 225. (S15 sets forth the temporary compliance option available to manufacturers to meet draft ISO requirements for the lower anchorages.) S9.1 of the standard contains provisions that are identical to the ones that had been deleted from S15. Today's final rule amends S9.1 to reflect the changes that had been made to S15 and makes minor changes to improve the clarity of the requirements. These amendments respond to petitions for reconsideration submitted by the Alliance, Porsche, Honda, and VW.

S9.1.1(b) specifies that the lower anchorages of the LATCH system must consist of two bars that ''whose centroidal longitudinal axes are collinear.'' S9.1.1(d) and (e) require that lower anchorage bars be made so that they can be connected to, over their entire 25 mm length, by the connectors of a child restraint system, and so that they are 280 mm apart, measured from the center of the length of one bar to the center of the length of the other bar. These requirements are deleted as unnecessary. The requirements were adopted to ensure that the bars are sufficiently long and adequately spaced to couple effectively with the connectors of a child restraint system. These purposes can be achieved using the ''child restraint fixture'' (CRF) referenced in Standard No. 225, because the CRF rearward extensions are 280 mm apart and are 25 mm wide (see Figure 2 of Standard No. 225). Further, under S9.3, the vehicle must allow attachment of the CRF to the lower bars. Thus, the CRF's successful attachment to the anchorages would independently confirm that the anchorages are long enough to attach a child restraint system and spaced an appropriate distance apart.

S9.1.1(c) specifies that the lower anchorages must be not less than 25 mm, but not more than 40 mm in length. The limits were adopted in part to standardize the design of the lower bars. The 40 mm maximum length specification was also adopted to reduce the likelihood that the bars may bend in a crash. The Alliance and Porsche petitioned the agency to delete the 40 mm maximum length limit as unnecessary. Petitioners believed that as long as the anchorages meet the strength test requirements of the standard and can accommodate the CRF, the limit is not needed. Alternatively, the Alliance suggested that only one of the two LATCH bars in an outboard seating position need be limited, and that limit should be 50 mm.

NHTSA has decided not to delete the maximum length specification. We believe that limiting the length of the anchorage bars will contribute towards better performance of a child restraint in a side impact. NHTSA conducted side impact sled tests in response to the Transportation Recall Enhancement, Accountability and Documentation Act (the TREAD Act) (November 1, 2000, Pub. L. 106–414, 114 Stat. 1800). See Docket No. 02–12151. These simulations showed that limiting lateral movement and/or rotation of a child restraint in a side impact is important to reducing occupant head excursion in the crash and the likelihood of head impact against the vehicle side structure. We believe that limiting the length of the bars will limit the chances that the bar will bend in a crash, and will limit the ability of a child restraint to move laterally and/or rotate in a side impact. The effect cannot be quantified at this time. Moreover, limiting the length of the bars also increases the uniformity of appearance to consumers. However, to provide more design and manufacturing flexibility to manufacturers, this rule increases the maximum bar length from 40 mm to 50 mm.

Bornemann Products Incorporated asked whether the ''not less than 25 mm but not more than 40 mm'' language in S9.1.1(c) refers to the inside opening of the anchorages (bars), or to the overall length of the bar including the 6 mm steel material. The answer is the inside opening of the bar, and not the overall length of it. We are adding a figure to the standard to clarify the meaning of S9.1.1(c).

S9.1.1(f) requires that the lower bars must be ''an integral and permanent part of the vehicle or vehicle seat.'' The Alliance stated that the strength requirements of the standard obviate the need for this requirement. The petitioner also inquired whether threaded fasteners are permissible. Honda asked whether fastening anchorages to the vehicle with bolts would be acceptable.

Our answers are that we agree with the Alliance that the strength requirements of the standard obviate the need to specify that the anchorages are ''integral and permanent.'' Thus, the words are deleted from the regulatory text. In response to Honda, anchorages that are bolted into the vehicle are acceptable, provided that they cannot be removed without the use of a tool, *e.g.*, a screwdriver or wrench. Specifying that the bars are attached to the vehicle or vehicle seat such that they can only be removed by use of a tool, and specifying the type of tool, makes the requirement more objective while limiting how easily the bars can be removed.

The agency emphasizes that it does not believe that the anchorage system should be designed with the intent of having consumers remove and/or replace the anchorages. The anchorages should be permanent features of the vehicle, similar to seat belts. Anchorages that can be removed have many potential problems associated with them. They might not be present when needed; when reinstalled they might not be correctly located and aligned in the vehicle or be strong enough to properly secure the child restraint to the vehicle. There should be no instruction in owners' manuals instructing owners how to remove the anchorage system from a vehicle.

c. Location of the Lower Anchorages (S9.2)

1. Rearward Force Application

Stated generally, S9.2 requires that each LATCH lower anchorage bar be located so that it is (a) not more than 70 mm behind a point Z of the CRF while the CRF is pressed against the seat back by the rearward application of a horizontal force of 5 Newtons (N); and (b) not less than 120 mm behind the vehicle seating reference point. General Motors petitioned to increase the maximum allowable distance (70 mm) behind the CRF to allow a more rearward location of the rigid lower anchorages. Alternatively, GM suggested that NHTSA should delete the 5 N rearward force specification, or increase it to allow the CRF to be pressed harder against the seat back. The Alliance stated in a June 2, 2000 letter that the value should be deleted, or increased to 150 N.

We have decided not to delete the rearward force specification. The purpose of the specification was to make the procedure for locating the LATCH lower anchorages as objective as possible. A force specification needs to be established so that testers know how hard they should press rearward on the CRF to position the device on the vehicle seat. Positioning the CRF consistently is important because the LATCH lower anchorages must be within 70 mm of point Z on the CRF. The harder the CRF is pressed against the seat back, the further rearward point Z will be. Specifying how hard to press the CRF against the seat back will

ensure that the CRF is positioned correctly time after time.

However, we have decided to increase the rearward force specification to 100 N. The 5 N force level was specified in the March 1999 final rule to provide an objective means of positioning the CRF. On reconsideration, while a force specification is needed for objectivity, increasing the force level will result in a larger area provided to vehicle manufacturers for installing the LATCH lower anchorages, which facilitates the installation of the anchorages. We estimate that a 5th percentile adult female would be able to exert a 100 N force pushing back on a child restraint without problem. Accordingly, the change has been made to S9.2 of the standard.

2. Pitch, Roll and Yaw

The draft ISO specifications for LATCH lower anchorages specify that, with the CRF attached to the anchorages and resting on the seat cushion, the bottom surface of the CRF must have attitude angles within certain limits (with angles measured relative to the vehicle horizontal, longitudinal and transverse reference planes). Pitch must be 15° ± 10°, roll 0° ± 5°, and yaw 0° ± 10°. Porsche petitioned NHTSA to incorporate these pitch, roll and yaw requirements into the requirements of Standard No. 225. NHTSA agrees that the requirements are necessary to more objectively specify how the CRF is installed in the vehicle. Today's final rule incorporates the pitch, roll and yaw requirements into S9 of the standard.[5]

d. Marking the Location of Lower Anchorage Bars

The March 1999 final rule specified marking requirements for lower LATCH anchorage bars that applied to bars that could not be viewed from an angle of 30 degrees above a horizontal plane tangent to the seat cushion (S9.5). (The location of bars that were visible from that angle did not have to be marked.) Vehicles in which the bars are not visible from that angle must have a permanent mark on the vehicle seat back at each bar's location. The rule specified (S9.5(a)) that the permanent mark must be a circle that is not less than 13 mm (½ inch) in diameter, is in a color that contrasts with the seat material, and is located above each individual bar such that the center of the circle is not less than 50 mm and not more than 75 mm above the bar and is in the vertical longitudinal plane that passes through the center of the bar. The purposes of marking the location of the bars were to provide a visual reminder to consumers that the LATCH system is present and to help users locate and use the bars. 64 FR at 10802.

1. Determining the Visibility of the Bars

Section S9.5(b) specifies that the vehicle seat back need not be marked to identify the presence and location of the lower LATCH anchorage bars if each anchorage bar is visible when viewed in a vertical longitudinal plane passing through the center of the bar, along a line making an upward 30 degree angle with a horizontal plane. Porsche suggested that the anchorages should be visible at angles of 30 degrees or less. The agency is declining to make this change, as the anchorages would be less visible at smaller angles.

Honda suggested that NHTSA specify that the seat back be positioned in the manufacturer's nominal design riding position when determining whether the anchorage bars are visible. The petitioner explained that the seat backs on some of its vehicles tilt far forward to allow for increased luggage capacity when the seat is unoccupied. The petitioners stated that when the seat back is adjusted in that manner, a child restraint system cannot be installed in the seating position, so visibility of the LATCH bars is not critical. NHTSA agrees and has made this change.

2. Identifying Both Bars

The Alliance and Porsche believed that only one lower anchorage bar need be required to be visible or marked, not both bars. The agency has decided against adopting this suggestion. Both bars must be identified to the consumer because, for the foreseeable future, child restraints sold in this country will typically have components that attach to the bars independently of each other. Consumers will need to know where to attach each of the two components. Knowing where one bar is located will not necessarily enable consumers to determine precisely the location of the other bar.

3. Features of the Required Circle

Solid Or Open Circle. Mitsubishi and Porsche believed that the standard should allow manufacturers flexibility in selecting the shape of the mark, rather than specify a circle. The Alliance believed that manufacturers should be permitted to have a solid or open circle with the option of including a pictogram or wording in the circle. NHTSA has decided that a circle must be used, to standardize on the symbol used to identify the anchorages. Standardization will likely increase user recognition of the symbol. NHTSA has also decided to permit the option of using an open circle (uncolored area in the circle). The circle may include text or an easily recognizable symbol or pictogram. The symbol or pictogram must be clearly explained to the consumer in writing, such as in the vehicle owner's manual.

Contrasting Color. Porsche believed that requiring the circle to be in a contrasting color would be optically disturbing and displeasing to consumers. The Alliance stated that ''a contrasting color requires a sewn on label or a painted application and these may be less durable than an embossed or woven marking which would show the marking in the color of the seat fabric but which would still be conspicuous.'' The agency has decided that the color of the circle need not contrast with the color of its background in order to be noticed. Thus, we have removed the requirement. However, if we find that the circles need to be more conspicuous in future vehicles, we will consider re-establishing a contrasting color requirement in the standard.

Permanency. The Alliance requested that manufacturers be permitted to—utilize the attachment means they deem best. The option for sewn on tags either onto the material or into a seam, adhesive applications, painted markings, and markings woven or embossed into the fabric should be permitted. Any of these options could be made permanent, that is, an owner would have to destroy or deface the marking to remove it.

The rule did not specify the manner in which the permanency of the mark must be achieved. However, the agency makes the following observations and conclusions on this matter. The ''destroy or deface'' test is suitable for situations in which a consumer is not inclined intentionally to remove a mark or label. However, the agency does not agree that a destroy-or-deface test is a good one for determining permanency with regard to the circles in question. Some consumers may not see value in having the marks on the vehicle seats. If only one side of a tag were sewn into a seam, the owner could snip it off and it would meet the ''destroy or deface'' test. Such a tag is not permitted, since it is foreseeable that an owner would remove it. A tag that is sewn on at least half of its border, so as to not invite snipping, would be acceptable to NHTSA. Some painted markings and adhesive applications might not be sufficient, even if they could meet a destroy-or-deface test. For instance, paint that easily flaked off would defeat

[5] The specifications were incorporated into S15 (the ISO-based requirements of the standard that manufacturers may meet for a certain time period) of the standard by the July 2000 response to petitions for reconsideration. 65 FR at 46636.

the purpose of the requirement. In contrast, the agency anticipates that weaved, embossed, stamped, and engraved marks would be permanent.

Vertical Position Of The Circle. Mitsubishi believed that consumers would be better assisted in locating the anchorage bar if the 50 mm lower limit for location of the anchorage bar mark were eliminated. The Alliance believed that the vertical position of the marking should be less restrictive than what the rule required. ''It should be visible at a 30 degree viewing angle and be located no more than 100 mm from the horizontal centerline of the anchorage bar in the vertical longitudinal plane.'' Mitsubishi and the Alliance asked where the ''seat back'' begins for the purpose of marking the lower anchorages on highly contoured seats. Mitsubishi stated that the bottom cushion of some of its seats curves toward the vertical and supports a portion of an occupant's lower back before a separate seat back begins. Petitioner stated that if the agency considers a portion of a vehicle seat to be the seat back solely by reference to a physical separation between the bottom seat cushion and the seat back, the circle markings would be more than 75 mm above the anchorage bars, which is not permitted by S9.5(a)(3).

The agency is not eliminating the 50 mm lower limit for the location of the bars because without it, the mark might be too low to be seen. The agency is not increasing the 75 mm upper limit to 100 mm because it might be difficult for some consumers to align the child restraint attachments with the circles when the circles are 100 mm from the bars. The 75 mm limit also harmonizes with Transport Canada's requirements for the location of the markings, as further discussed below.

To make it easier to find where the circles should be placed, the agency is amending S9.5(a) to use reference planes developed by Transport Canada in Regulation 210.2, ''Lower Universal Anchorage Systems for Restraint Systems and Booster Cushions '' (Standard 210.2). That standard requires the markings to be on the seat back between 50 and 75 mm above or on the seat cushion 100 ± 25 mm forward of the intersection of the vertical transverse and horizontal longitudinal planes intersecting at the horizontal centerline of each lower anchorage. This approach is not only clearer in where the circles should be, but also permits the markings to be located either on the seat back or the seat cushion, which allows flexibility to manufacturers such as Mitsubishi with atypical seat designs. The area 100 ± 25 mm forward of the intersection of the planes is specified to account for the lower anchorage bars being recessed in the padding of the seat back or recessed in the seat bight. This final rule incorporates a figure (Figure 22) into the standard that illustrates the intersection of the vertical transverse and horizontal longitudinal planes.

Lateral Position Of The Circle. The Alliance stated that a tolerance needs to be provided for centering the circle over the anchorage bar to account for production variation and seat cover configuration. Petitioner suggested that the centerline of the marking should be located ± 25 mm from the vertical centerline of the anchorage bar. We agree to provide a tolerance for centering the circle over the bar. However, the 25 mm tolerance that petitioner suggested is too large. If an anchorage is the minimum length (25 mm) and the centerline of the circle is 25 mm from the centerline of the bar, the centerline of the circle would not be over the bar. The tolerance is ± 12 mm from the vertical centerline of the bar. A tolerance of ± 12 mm ensures that, even with the shortest bars (those only 25 mm long), the centerline of the circle is over a part of the anchorage bar to which a child restraint would connect.

4. Covering Otherwise Visible Bars

Several petitioners asked about anchorage bar covers. Porsche asked whether easily removable caps or covers for otherwise visible LATCH lower anchorages may be provided. Honda stated that it is considering using a guide to make it easier to attach a child restraint. ''With this guide, we would like to use a cover to prevent contaminating the anchorage by foreign substances falling or being inserted into the guide.'' Honda suggested adding a provision to S9.5 that would specify that, if the vehicle has a guide and cover for a bar: (1) the vehicle shall comply with S9.5(b) when the cover is removed; and (2) the cover shall be marked permanently with a circle according to S9.5(a) of the standard. Our answer to these petitioners is that caps and covers may be provided on these vehicles that meet S9.5(b), if the cap or cover is permanently marked. Marking the cap or cover alerts the consumer to the presence and location of the LATCH bars. The meaning of the words, symbols or pictograms must be explained to the consumer in the owner's manual. The standard has been amended to make these requirements clear.

5. Guide Devices

Volkswagen (VW) asked about use of an anchorage locator such as a guide device installed onto the anchorage at the seat bight. VW suggested that a guide device ''would be clearly visible even if the bar itself is not visible,'' and that visible guidance devices should therefore meet S9.5's marking and conspicuity requirements. We have decided that the seat back need not be marked if the visible guide device is permanently attached to each anchorage bar and is not removable. The standard has been amended to allow this. If the device were removable, it could be lost or misplaced. Without the device, the bar will be hidden from the consumer, and as such, less likely to be used.

e. Location of Flexible Routing Devices

Section S6.2.1.2(b)(1) of Standard No. 225 specifies that any flexible or deployable tether strap routing device must be not less than 65 mm behind the torso line for that seating position, measured horizontally and in a vertical longitudinal plane. This provision is intended to keep the routing device far enough back to remove slack from the tether strap, particularly a tether strap that is mounted high on the back of a child restraint.

In its petition for reconsideration, Ford noted that S6.2.1.2 does not specify the conditions under which this dimension is to be measured. Ford believed that the provision is intended to measure the position of the routing device in actual use, while a tether strap is routed through it and tensioned.

Ford suggested that a procedure be developed using the SFAD 2.[6] Such a procedure would install the SFAD 2 on the anchor bars (with the length of the anchor attaching bars properly adjusted) and the front part of the SFAD 2 base touching the seat cushion. A 40 mm wide nylon tether strap would be routed through the tether routing device and hooked to the appropriate tether anchor, following the vehicle owner's manual instructions. The forwardmost contact point between the strap and the routing device should be 65 mm or more behind the torso line when the tether strap is clamped flat against the top surface of the SFAD with a tension of 55 to 65 N in the strap. For seating positions without lower anchorages, the SFAD 2 must be held with its central lateral plane in the central vertical longitudinal plane of the designated seating position. For this measurement, the adjustable anchor attaching bars of SFAD 2 would be replaced by spacers that end flush with the back surface of the SFAD base.

[6] If SFAD 1 were used for this test measurement, that fixture might contact the routing device and push it rearward of the 65 mm limit in some seats.

NHTSA believes that the above procedure recommended by Ford is objective and will meet the intent of the requirement. This final rule adds language to S6.2.1.2 to reflect this.

f. Performance and Testing of Anchorage Systems

1. Strength of Tether Anchorages

The NPRM proposed that the tether anchorage would be tested in a static pull test. A force of 5,300 Newtons (N) would be applied by a belt strap that attaches to the tether anchorage, and applied in the forward horizontal direction. The proposal was based on a Transport Canada requirement of 5,300 N which had been applied in Canada to non-user-ready tether anchorages in passenger cars prior to 1999. The NPRM proposed that the 5,300 N force would be attained within 30 seconds, with an onset force rate not exceeding 135,000 N per second, and maintained at the 5,300 N level for one second. The NPRM proposed that each structural component of the anchorage must withstand the 5,300 N force, and that there must not be any complete separation or failure of any anchorage component.

The final rule adopted a static pull test using a test fixture, instead of a belt strap, to apply the test forces to the tether anchorage. The fixture has a configuration representative of a child restraint system and applies the test forces in a more realistic manner than does a belt strap. The fixture is attached to the tether anchorage at the fixture's top, and to the vehicle seat at the fixture's bottom end (at the intersection of the vehicle seat cushion and back) using the vehicle's seat belt or the lower bars of a child restraint anchorage system. The test force is applied pulling on a strap that is attached to a point on the fixture. A force of 15,000 N is applied to the fixture, which in turn, applies the force to the three anchorage points (the tether anchorage and the seat belt anchorages or the lower bars). Since the fixture is attached to three anchorage points, only a portion of the 15,000 N force is actually applied to the tether anchorage. The 15,000 N force is attained within 30 seconds, at an onset force rate of not more than 135,000 N per second; and maintained at the 15,000 N level for one second. The final rule requires that (a) there must not be any point on the tether anchorage displaced more than 125 millimeters (mm) (approximately 5 inches); and (b) there must not be complete separation of any anchorage component.

The 15,000 N force level was selected because the agency believed it to be sufficiently high to ensure that the anchorage will withstand the loads generated by children in forward-facing restraints. This determination was based on test data from Transport Canada. (Transport Canada obtained these data after it had adopted a 10,000 N strength requirement for testing tether anchorages. As discussed later, Transport Canada subsequently raised its requirement to 15,000 N.) Canada conducted 48 km/h (30 mile-per-hour (mph)) dynamic tests of a prototype child restraint (weighing 32 lb) that had rigid LATCH attachments and a tether (''CANFIX''), and a 3-year-old (33 lb) dummy. It found dynamic loads of about 3,500 N and 4,000 N on the tether anchorage (loads on the lower attachments ranged from 3,000 N to 4,000 N). Transport Canada then conducted a static pull test to determine the amount of force that would have to be applied to the CANFIX child restraint to produce a static load of 3,000 to 4,000 N on the lower anchorages. The pull force was 14,000 N (applied to three anchorage points by way of a fixture). NHTSA determined that a 15,000 N load requirement was needed to ensure that an anchorage system will not fail in a crash. In addition, the agency believed that simultaneously applying a 15,000 N load to the three LATCH anchorages was comparable to applying an approximate 5,000 N load to a single anchorage.

The Alliance, Ford and other manufacturers opposed the strength requirements. Petitioners believed that the agency's rationale for the 15,000 N requirement was invalid. The Alliance and Ford said that applying a 15,000 N load to the three LATCH anchorages by means of the SFAD fixture is not the same as applying a 5,300 N load to any single anchorage by a belt strap. Petitioners also believed that the Transport Canada test used an unrepresentative child restraint and sled pulse. Petitioners further suggested that an 8,000 N load application applied by an SFAD in the forward direction is sufficient for motor vehicle safety, regardless of whether lower anchors or top tether anchors are being tested. A child restraint manufacturer, E-Z-On, petitioned to increase the 15,000 N requirement, believing that it should be higher to account for the tethering of vests and harnesses that restrain children and young adults with special needs who may weigh up to 120 pounds. All significant issues raised by each of these petitions are addressed below.

i. Final Rule's Basis for the Strength Requirement

The petitioners believed that it was incorrect for the agency to believe that the test load applied to the test fixture at a point approximating the center of gravity of a child/CRS system is similar to testing each of the anchors separately. The Alliance stated that the conclusion ''ignores the fact that forces are vector quantities having both a magnitude and direction that cannot be summed in a direct arithmetic (scalar) fashion when they are not acting in the same direction.'' Ford stated in an April 19, 1999 petition for reconsideration that in many sedans in which the tether anchorage is mounted to the filler panel between the top of the rear seat and the rear window, it is common for 70 to 85 percent of the 10,000 N force on SFAD–1 (used to test tether anchorages at seating positions with seat belts) to be transferred into the top tether strap. Ford stated that at a 15,000 N SFAD force, the percent of the force on the top tether is 65 to 80 percent in many sedans.

Ford stated that when using SFAD–2, the total forces on the lower anchors are greater than the force applied to point X on the SFAD ''because the fixture applies realistic vertical forces as well'' the amount of this reaction force will vary somewhat in different vehicle designs, but will typically be 6 to 7 kN. The resulting total force on both the lower anchors from the 8 kN force is about 10.5 kN. * * *'' Ford stated that ''11 kN force applied to point X resulted in a force of 9.3 kN on the outer anchor and 6.7 kN on the inner anchor, for a total anchor load of 16 kN on both lower anchor * * *.''

The Alliance also believed that the 15,000 N requirement was based on a Transport Canada test which petitioners said—

> did not accurately simulate vehicle seats or child restraints. It did not accurately simulate the loads paths that a child restraint and child would have on child restraint anchorages in an actual vehicle. Thus, the 15 kN force has only a tenuous relation to what would occur in a vehicle crash and should not be used as a basis for setting the static test force level in FMVSS 225.

Ford stated that the test used a ''very heavy and rigid child restraint, a very rigid tether anchor, and a high strength/low elongation tether strap.''

Response. The agency does not agree with the Alliance or with Ford that the strength requirement should be revised. Ford's finding that one anchorage can be subjected to more or less load than another is not surprising, since the SFAD is positioned on the vehicle seat

cushion and would naturally be affected by the influences of the cushion, seat structure and other features of the vehicle that can affect loading patterns. The distribution of the force applied to the device (and in a real life situation to a child restraint) can vary from vehicle to vehicle and between one child restraint and another. The distribution of force in a crash can also vary within a given vehicle, depending on the design of the seat position and the child restraint. The percentage distribution of the crash forces among the anchorages can also depend on how the child restraint is installed. The tightening of webbing (of either a vehicle belt system or LATCH attachments on a child restraint) could have a significant effect on the distribution of the applied load. In the event that a vehicle belt is loose, or the LATCH or tether webbing is improperly installed with slack, it is likely that highly unequal load transfers to the various anchorages could occur. Thus, the fact that the SFAD unevenly distributes the test load to the anchorages is a positive factor since it better reflects real world use and performance. The fact that the anchorages might be subjected to loads above or below 5,300 N is not material, as long as the total test load applied to the system is appropriate for the system. The safety need for and practicability of the requirement will be discussed in the next sections.

Further, the agency does not agree that the Transport Canada test should have been disregarded. The data were meaningful in providing a basis for estimating the force imposed on the LATCH anchorages. The child restraint used was a reasonable representation of a child restraint with rigid LATCH anchorages, as were the tether anchorage and the tether strap. There was no basis at that time for setting a lower strength requirement.

In concluding that the 15,000 N requirement should be retained, NHTSA has closely considered the information submitted by the Alliance in the petitions for reconsideration regarding an 8,000 N requirement. As discussed in the remainder of this section, we have decided to retain the requirement while changing the displacement limit of 125 mm to a prohibition against the tether anchorage separating completely from the vehicle seat or seat anchorage or the structure of the vehicle.

The 15,000 N load requirement harmonizes with Canadian requirements for the strength of child restraint anchorage systems. On May 30, 2002, Transport Canada published its final regulation on universal anchorage systems for child restraints. Transport Canada requires the anchorage system to withstand (*i.e.,* not separate completely from the vehicle seat or seat anchorage or the structure of the vehicle) when tested with an SFAD applying a 15,000 N force. Canada has analyzed NHTSA's evaluation of the petitioners' information and arguments and has concurred with our determination that the 15,000 N requirement meets the need for motor vehicle and child safety.

ii. What Should the Requirement Be?

A. Petitioners Believe It Should Be 8,000 N

The Alliance petitioned that an 8,000 N load application applied by an SFAD in the forward direction is sufficient for motor vehicle safety regardless of whether lower anchors or top tether anchors are being tested.

1. Comparison to Standard No. 210 Requirements

The Alliance stated that an 8,000 N load is consistent with FMVSS No. 210 (''Seat Belt Assemblies,'' 49 CFR § 571.210) with respect to scaling test forces and occupant sizes. The Alliance estimated that LATCH anchorages will be subjected to a 27 kilogram (kg) mass (about 60 pounds). This value represented the combination of an occupant and a restraint system. (The mass of the occupant, a child, was estimated to be 18 kg (equal to about 40 pounds), while the mass of the child restraint was 9 kg (about 20 lb).) The petitioner stated that the 27 kg mass was 36 percent of the 75.5 kg derived mass for the lap belt test and 33 percent of the 81 kg derived mass for the lap/shoulder belt test. Thus, the petitioner said that an 8,000 N static test force was suitable since it is approximately 36 percent of the 22,200 N test force applied in lap belt tests and 33 percent of the 24,000 N test force used on lap/shoulder belt combinations.

2. Engineering Analysis

The Alliance also believed that an 8,000 N load application in the forward direction is sufficient for motor vehicle safety based on an analysis of the forces that are likely to be imposed on a LATCH system in a crash. Petitioner submitted a February 16, 2000 document entitled, ''Engineering Basis for Strength Tests of Child Restraint Anchors (FMVSS 225)'' (Docket Document 6160–19), to support its belief that an 8,000 N load application is the maximum force level that should be attained in the anchorage strength test. The paper explained that the value that the standard should specify ''should be * * * consistent with the appropriate management of the energy of the child/CRS in a vehicle crash. It is this force which the anchorages must be able to resist in order to hold the CRS [child restraint system] in place during a crash.'' The petitioner believed, and the agency agrees, that in a frontal collision, the maximum expected force acting on the center of gravity of a child in a child restraint is calculated as the total mass of the child and the child restraint (''the child/CRS system'') multiplied by the acceleration of this system. Based on certain assumptions about the mass of the system and the acceleration of the system in a certain type of vehicle, the Alliance concluded that the LATCH anchorages would be subject to a force of only 8,000 N.

As noted above, the petitioner made the following assumptions about the mass of this system: mass of child is 18 kilograms (kg) (equal to about 40 pounds); mass of the child restraint is 9 kg (about 20 lb); total mass of system is 27 kg (about 60 lb). The mass of the child restraint was estimated to be 9 kg (20 lb) based on current child restraints. The acceleration of the system was based on the typical peak sill acceleration of a 1999 Dodge Intrepid during a 30 mph rigid barrier collision, which was about 27 g, or 265 m/s^2. The petitioner selected this vehicle because the car exhibited the highest peak acceleration within the group of competitive vehicles for which data were available for the analysis. Based on these estimates, the Alliance believed that the expected peak force for the child/CRS system would be: $F = ma = (27\ kg)(265\ m/s^2) = 7{,}200\ N$.

Moreover, the Alliance argued that the force should be applied for only 250 ms, because the significant accelerations that occur in a crash occur during the first 200 ms of the crash event.

With these considerations in mind, the Alliance suggested that the strength test procedure should specify the following:

> Starting with a preload of 500 N, ramp-up the force (in an approximately linear fashion to avoid overshoot and undershoot) to 8,000 N and apply the force for 250 ms (providing a dwell to assure an accurate attainment of force magnitude and a conservative application time to assure accurate attainment of force magnitude and a conservative application time to assure accurate impulse.)

3. Static v. Dynamic Performance of Materials

The Alliance further argued that the agency should not have based a static pull requirement on the results of a dynamic test since the two are not equivalent. The Alliance stated that there is nearly a two-fold ''factor of

safety'' in a quasi-static test procedure when compared to the dynamic, crash-event performance of the same anchorage. ''Static and dynamic strengths of materials are fundamentally different due to strain rate sensitivity. Strain rate sensitivity defines how the strength of materials changes with the velocity of loading.'' The Alliance stated that the design of an appropriate static or quasi-static test to evaluate the strength of a component subject to dynamic loads should consider strain rate sensitivity as an important parameter. The petitioner stated that it believes that LATCH anchorages can withstand peak dynamic loads that are significantly larger than static test loads. The Alliance stated that it conducted component level tests to directly compare the static and dynamic ultimate strengths of lower LATCH anchorages (Docket comment 6160–27). The tests involved a static test-to-failure of an anchor loop and mounting bracket subassembly, and a dynamic test using a drop tower that created the same failure condition as the static test. In the static test, which used an Instron testing machine to load the anchor loop in the same direction as a child restraint would load it in a frontal crash, the failure mode was consistently found to be shear-out of the mounting hole.

A drop tower test was then conducted to determine the acceleration that would produce the same failure mode as the static test. In the test, a 50 kg (110 lb) stack of laboratory weights was hung on an anchor loop. The drop tower height was increased until the post-test condition of the part was comparable to the parts subject to the static ultimate strength test. The acceleration measurements were filtered to SAE J211 60 CFC.

The static failure mode was duplicated in drop tower tests with peak accelerations of 45 g (440 m/s^2). The Alliance believed that the peak dynamic load that corresponds to the 45 g acceleration is: (50 kg)(440 m/s^2) = 22,000 N. Thus, the overall deformation and shear-out failure was similar for a statically loaded part that failed at 16,500 N and a dynamically loaded part that had peak dynamic load of 22,000 N. That is, a significantly larger load was required to fail the part under dynamic conditions. The petitioner stated:

> The most severe vehicle impact conditions will result in a dynamic strength of approximately two times the static strength for the typical carbon steels used in automotive applications. The elevation of strength will depend on the selection of material. However, steel is one of the least strain rate sensitive engineering materials. If plastic or composite materials were used instead, the elevation of strength would be even larger. The data shown here represents essentially the worst case for strength elevation. A static or quasi-static test load that would simulate high-speed impact should be approximately 50% of the expected dynamic load.

B. NHTSA Decides On 15,000 N

1. Proportioning Seat Belt Loads

NHTSA does not agree that it is appropriate to proportion Standard No. 210's load requirements. Loading of the seat belt anchorages by the vehicle's belt system when restraining an adult occupant is not analogous to the loading of the LATCH anchorages by a child in a child restraint. Differences in the geometry of the loading, the attachment of webbing and/or other components to the LATCH anchorages, and other factors that are not thoroughly known or evaluated argue for separate strength requirements for each seat set of anchorages. Further, the potential for misuse is greater with respect to the use of LATCH anchorages than with the use of vehicle belts to restraint adult occupants, as consumers in the past did not typically attach top tethers to the tether anchorage and often did not tightly attach child restraints to vehicle seats. Such misuse could increase or otherwise affect the loading of the LATCH anchorages in a manner that renders the loading of the anchorages dissimilar to the loading of seat belt anchorages.

2. Engineering Analysis

The agency agrees with the Alliance that Standard No. 225's strength requirement can be based on an analysis of the forces that are likely to be imposed on a LATCH system in a crash. NHTSA agrees that the maximum expected force acting on the center of gravity of a child in a child restraint is calculated as the total mass of the child and the child restraint system (''the child/CRS system'') multiplied by the acceleration of the system. However, the agency does not agree with many of the Alliance's assumptions about the values that should be used for the mass and acceleration of the system.

NHTSA believes that petitioner's assumptions about the mass of the child/CRS system are too narrow. Child restraint manufacturers can and do produce full-harness child restraints for children over 18 kg, as nothing in the Federal motor vehicle safety standard for child restraint systems (Standard No. 213, 49 CFR 571.213) prohibits these child restraints to be recommended for children with masses above 18 kg (40 lb). As an example, Britax Child Safety, Inc., produces a number of 5-point harness type restraints for children weighing more than 18 kg (40 lb). Currently, Britax produces the ''Marathon,'' a convertible restraint certified for use by children weighing up to 65 lb, the ''Husky,'' a forward-facing only restraint certified for use by children weighing up to 80 lb, and the ''Traveler Plus,'' a restraint designed for special needs children and certified for use by children weighing up to 105 lb.[7]

The agency undertakes rulemaking to amend Standard No. 213 in response to changes in child restraint designs, uses and the safety needs of children. For example, NHTSA recently proposed to amend Standard No. 213, which currently applies to child restraints recommended for children up to 50 lb, to extend its applicability to restraints recommended for children weighing up to 65 lb (May 1, 2002, 84 FR 21806). The Transportation Recall Enhancement and Documentation (TREAD) Act directed NHTSA to consider whether to amend Standard No. 213 to cover restraints for children weighing up to 80 lb. To that end, the agency is working with the Society of Automotive Engineers (SAE) to develop a 10-year-old dummy for use in testing booster seats. Given the innovation in child restraints design and use and the move toward keeping children in child restraints longer, the mass of the child/CRS system on a LATCH system should be assumed to be greater than 18 kg. We will assume a child mass of 29.5 kg (65 lb), in line with the May 1, 2002 rulemaking proposal.

Further, the agency disagrees with the Alliance that the acceleration of the child/CRS system should be 27 g (265 m/s^2). NHTSA has reviewed data from joint NHTSA/Transport Canada frontal, 30 mph rigid barrier crash tests of 1995 to 1999 model year vehicles. Transport Canada found that peak accelerations of many of these vehicles were higher than 27 g. Based on a comparison of the pulse shapes for the same vehicle and the same test used by the Alliance and Transport Canada, NHTSA believes that the two entities obtained different peak accelerations because of the filter used on the data. The Alliance used a 30 Hz cutoff filter, rather than the SAE specified CFC 60 with a 100 Hz cutoff frequency.

[7] Britax provides the following consumer information for its LATCH-equipped child restraints certified for children weighing more than 40 lb: ''Use vehicle seat belt (not LATCH connectors) for installations with children weighing more than 48 pounds (21 kg.). Refer to the vehicle's owner's manual for the maximum weight rating for their LATCH anchors. Unless specified otherwise by the vehicle manufacturer, assume a 48 pound child is the vehicle LATCH anchor limit.''

NHTSA has determined that the 100 Hz filter is the appropriate one to use when determining the accelerations and corresponding forces transmitted through the vehicle structure to the LATCH anchorages. SAE Recommended Practice J211, ''Instrumentation for Impact Test—Part 1—Electronic Instrumentation,'' specifies the various filter classes and associated cutoff frequencies that are to be used in impact tests. SAE J211 specifies Class 60 filters for vehicle accelerometer measurements, using a cutoff frequency of 100 Hz. NHTSA also specifies SAE J211 filtering for dynamic testing, including testing specified in FMVSS No. 208, FMVSS No. 214 (''Side Impact Protection''), and in the New Car Assessment Program, as well as in Part 572, the regulation for anthropomorphic test dummies. This is the filtering methodology that was employed by Transport Canada in obtaining the vehicle acceleration data used in its calculation of the maximum force levels through the center of gravity of the child and child restraint. The Alliance used the identical vehicle pulse using the same filtering methodology, but used a cutoff frequency of 30 Hz, instead of 100 Hz. Use of the 30 Hz cutoff frequency effectively eliminates the shorter duration, higher amplitude peaks that are seen when using a 100 Hz cutoff. However, such a low frequency filter eliminates a significant portion of the energy that is transmitted through the vehicle structure to the LATCH anchors. This is why SAE J211 specifies the higher cutoff frequency for such applications.

The agency examined a total of forty-three 30-mph rigid barrier tests conducted in a joint NHTSA/Transport Canada test program to evaluate air bag performance. Plots were obtained for the left door sill acceleration filtering at both the 100 Hz and 30 Hz cutoff frequencies. The plots are provided in Docket NHTSA–98–3390. Using the industry standard SAE J211, the plots indicate that the average peak deceleration for the entire set of tests is 32.7 g, with a standard deviation of 7.87 g and a maximum of 51.6 g (for the model year 1999 Plymouth Breeze). Based on these data, the agency has assumed the acceleration of the child/CRS system to be 48.4 g. This is based on the mean plus two standard deviations (32.7 g + 2(7.87 g)) of vehicle crash pulses conducted by NHTSA and by Transport Canada. We do not believe that one standard deviation is sufficient because with one standard deviation, 16 percent of the crash pulses would fall above that value. For two standard deviations, only 2.5 percent fall above.

Assuming a child and child restraint mass of 29.7 kg (65 lb), the dynamic force expected to act through the center of gravity of the child/CRS system in a 48.4 g crash is approximately 14,100 N. The agency is not reducing Standard No. 225's 15,000 N load requirement to take account of the static loading condition of the requirement. Notwithstanding the Alliance's comparison of static to dynamic strength of one type of anchorage system, there is no consistent and direct correlation between static and dynamic strength of anchorage systems. Furthermore, the dynamic force on the system could be higher than 15,000 N.

Such is the case when vehicle accelerations are more than 48.4 g. In a 30 mph rigid barrier crash, the model year 1999 Plymouth Breeze had an acceleration of 51.6 g. The dynamic force acting through the center of gravity of the system (generated by a child/CRS mass of 29.5 kg (65 lb)) was 18,500 N. The same calculations for an 80-lb child occupant result in a dynamic force of 20,600 N.[8]

In addition, the requirement is needed for real-world crashes above 30 mph. Data from NHTSA's Fatal Analysis Reporting System and General Estimates System indicate that in 2000, there were 3,390,000 crashes above 30 mph. In response to the TREAD Act, NHTSA initiated a program to include child restraints in certain New Car Assessment Program (NCAP) vehicles. All vehicles and child restraints anchorages tested to date have performed well, with the exception of the model year (MY) 2001 Toyota Echo (see NHTSA–98–3390–58). During the NCAP test conducted at 35 mph and with the Cosco Triad forward-facing LATCH child restraint with a Hybrid III 3-year-old dummy positioned in the rear passenger seat, the tether anchorage in the vehicle sheared. Following this structural failure of the tether anchorage, NHTSA conducted a number of tests in an attempt to understand why the anchorage in this particular vehicle failed when tether anchorages in all other NCAP vehicles tested had performed without incident.

NHTSA had performed a FMVSS No. 225 compliance test on the MY 2000 Toyota Echo, using the 5,300 N belt strap option set forth in Standard No. 225, S6.3.4.1. Both outer anchorages were loaded simultaneously with no failure of either anchorage. Following the failure of the tether anchorage in the NCAP vehicle, NHTSA performed a compliance test on the tether anchorage at the rear driver's side position of the NCAP vehicle, again using the 5,300 N belt strap load. Again, the tether anchorage passed the compliance test without incident. For information, the test was continued, increasing the load until the anchorage failed. This occurred at a load of approximately 6,300 N (a margin of 18 percent above the requirements of the standard).

Following this compliance test, NHTSA had the facility test the tether anchorage located at the center rear seating position of the MY 2000 Toyota Echo. The configuration and the material of the tether anchorage of the MY 2000 Toyota Echo are the same as that of the MY 2001 model. Instead of using the belt strap to apply a 5,300 N load as had been done on both previous occasions, the agency performed the test using the SFAD 1 test device. This test device attaches to the vehicle via the lap and shoulder belt and the top tether, and a load is applied horizontally through a specified point on the test device. As such, the SFAD 1 closely replicates the loads actually seen on the vehicle anchorages in an actual crash, as opposed to the belt strap test, which only loads the specific anchorage being tested.

The SFAD 1 was loaded to 10,000 N, held for 1 second, and then increased until failure of the tether anchorage.[9] In addition, the tether strap and the vehicle belt were instrumented to measure their respective loads. In this test, the tether anchorage failed upon application of a load of 13,000 N to the SFAD 1.

In examining possible differences between the Toyota Echo and other NCAP vehicles examined as part of this analysis, the agency measured the Echo's peak deceleration to be 44.3 g, using the SAE J211 filter with a 100 Hz cutoff frequency. This is 4.5 g higher than any other NCAP vehicle evaluated in the analysis, and more than 10 g higher than any vehicle pulse evaluated in the 30 mph crash tests performed jointly between Transport Canada and NHTSA. NHTSA requested information regarding the vehicle pulse of the Toyota Echo in a 30 mph crash from the manufacturer, and was told that it was 34 g.

Toyota informed NHTSA that it had performed static tests with both a belt

[8] Note, however, that 80 pounds is the weight of an average 11-year-old. An 80-lb child is likely to be restrained in the vehicle's seat belt system while using a belt-position booster seat. Such seats are not required to have LATCH attachments.

[9] 10,000 N is the peak load required in S6.3.4 of FMVSS No. 225, which represents the Transport Canada alternative compliance option permitted by current Standard No. 25 until August 31, 2004.

strap load and with a SFAD 1 that replicate the results found in NHTSA testing described above. In each instance, the tether anchorage failed at a load measured to be 6,300 N at the tether anchorage itself. (In Toyota's test, the tether anchorage failed when tested with SFAD 1 at a load of 11,500 N. This is compared to the 13,000 N load applied by SFAD 1 in our test of the center tether anchorage. These results are very comparable.) Toyota also conducted dynamic testing of the Toyota Echo with a reinforced anchorage design, at 35 mph, with no failure of the anchorage. In this dynamic test, Toyota measured the force at the tether anchorage itself to be 8,300 N. In comparing the difference between the static breakage load and the top tether load in a 35 mph dynamic test, Toyota found that the tether anchorage was able to withstand about 30 percent greater loads dynamically than statically. Toyota also used the 30 percent margin found in its analysis of the static breakage load using the belt strap test versus the measured tether load in the 35 mph test to estimate what the required SFAD load would need to be to pass a 35 mph dynamic test, given that the anchorage failed the SFAD test at 11,500 N. Multiplying the 11,500 N SFAD breakage load by 1.3 produced an answer of 15,000 N. Thus, Toyota estimated that a 15,000 N static load would be needed to ensure that the anchorage would not break in a 35 mph crash.

The results of this testing indicate that high tether anchorage loads can occur in isolated, and admittedly severe crash conditions. In comparing the results of testing conducted on the initial Toyota Echo tether anchorage design and a reinforced design, Toyota confirmed that an anchorage designed to meet the 15,000 N static test strength requirement (the NHTSA requirement) would be necessary to ensure protection in a 35 mph crash in a vehicle with a relatively severe crash pulse such as the Toyota Echo.[10] The testing also confirmed the ability of these anchorages to withstand greater loads under dynamic conditions as compared to static test conditions.

For the aforementioned reasons, NHTSA will not reduce Standard No. 225's static strength test requirement of 15,000 N. The agency notes that a 15,000 N load requirement harmonizes with the 15,000 N Canadian requirement for the strength of child restraint anchorage systems. Thus, retention of the standard's strength requirement of 15,000 N furthers the agency's efforts to harmonize its standards with foreign countries and international bodies to the extent consistent with 49 U.S.C. Chapter 301 (the National Traffic and Motor Vehicle Safety Act).

In a related matter, we deny a petition for reconsideration of the March 1999 rule from E–Z-On Products, Inc. of Florida. Petitioner E–Z-On Products asked that NHTSA set the standard's tether anchorage strength requirement at a level sufficient to account for usage by children in safety vests who weigh up to 120 lb.

As discussed in previous sections, the agency has based the determination of the maximum strength requirements on assumptions regarding the mass of the system and vehicle decelerations. Specifically, with respect to the mass of the child, the agency has used 65 lb, as proposed in the TREAD NPRM, which exceeds the current limit of Standard No. 213's applicability by 15 lb. While there are some vest systems and other child restraint systems that are certified for higher weights, it would be unreasonable to require each vehicle manufacturer to design tether anchorages for occupants weighing nearly twice the limit contemplated by the existing child restraint standard.

Further, 120 lb is greater than the weight of a 5th percentile female adult. Persons of this weight should be restrained by the vehicle belt system, not the child restraint anchorage system. One of the purposes of establishing a standard requiring the installation of child restraint anchorage systems in vehicles was to ''optimize seat belts to restrain older children, teenagers, and adults.'' (64 FR at 10788) In a similar vein, the agency believes child restraint anchorage systems can best be optimized by focusing on the masses generated by children in child restraints and by not adding to the burden of the LATCH system the goal of restraining older passengers as well. The agency notes that it expects to address this matter further in the future. We are considering the need for labeling and printed instructions, as well as consumer information, to minimize the potential misuse of using LATCH to restrain persons weighing more than 65 lb.

C. NHTSA Replaces Displacement Limit

The March 1999 final rule had specified that any point on the tether anchorage must not be displaced more than 125 mm in the standard's strength test. The Alliance petitioned for reconsideration of the 125 mm displacement limit specified in S6.3.2, stating, *inter alia*, that the displacement requirement was not practicable or objective. In the August 1999 response to petitions for reconsideration, NHTSA moved the location of the displacement measurement to point X on the test device and specified that displacement is measured in the horizontal direction. The agency also denied the suggestion to replace the displacement limit with an alternative that the tether anchorage ''withstand'' the required forces because a displacement limit is more objective than the latter in determining whether an anchorage met the performance criteria. 64 FR at 47576.

The Alliance petitioned again following the denial (docket 6160–11), asking that the displacement limits for tests using SFADs 1 and 2 be deleted. Petitioner stated that displacement of Point X on SFAD 1 is not strongly influenced by tether anchorage characteristics, but by the characteristics of the vehicle seat belt. Petitioner also stated that to comply with the 125 mm displacement criterion, vehicle manufacturers may be forced to redesign lap and lap/shoulder belts and their anchors that would require extensive re-testing of the systems. Petitioner explained that redesign is necessary because without it, the belts attached to SFAD 1 will rotate, as the seat cushion is compressed, contributing significantly to the displacement of point X. Further, the petitioner stated that it is likely that lap belt angles would have to be reduced and anchorage locations moved in order to allow the belt to better control the test fixture's displacement (which is primarily due to the belt and not to the tether anchorage). One negative safety consequence of such changes, stated the Alliance, would be increased risk of a belted occupant slipping under the lap portion of the belt during a crash. ''This risk would be highest for smaller occupants, particularly children, who are frequent rear seat occupants.''

NHTSA has decided to grant petitioner's request to replace the 125 mm displacement limit with different performance criteria for the performance of the tether anchorage. (As discussed in the next section, this change has not been made for tests of the lower LATCH anchorages tested without the tether attached.) One of the reasons underlying the rulemaking to require child restraint anchorage systems is to make the means of attaching child restraints independent of the vehicle's belt system. By making the two systems independent, vehicle manufacturers can optimize vehicle seating and belt systems to better protect older children

[10] Toyota has stated that it is not aware of any tether anchorage failures in real-world crashes, and has since upgraded the tether anchorage designs in the Echo and other models with similar designs.

and the adult population, without worrying about the incompatibilities of those designs with child restraint systems. The petitioner has shown that the 125 mm displacement limit would have the effect of intertwining the two systems again, without a compelling need to do so, contrary to the intent of the rulemaking. By causing vehicle manufacturers to reduce lap belt angles, the LATCH system would limit the ability of vehicle manufacturers to optimize seat belt designs that could greatly improve the restraint of older children, teenagers, and adults.

Manufacturers might have to over-design to meet both the 15,000 N strength requirement of the standard and a displacement limit for LATCH-equipped seating positions, which could result in the unnecessary stiffening of vehicle seat and floor structures and other design changes that curtail the ability of belt systems to restrain occupants.

A displacement limit is extremely objective. However, a displacement limit impedes manufacturers' abilities to optimize seating and belt designs to better restrain older children, teenagers and adults. Sufficient objectivity can be achieved in a manner other than by specifying the displacement limit. Instead of the 125 mm displacement limit, the standard will specify that, when subjected to the 15,000 N test load, the tether anchorage shall not separate completely from the vehicle seat or seat anchorage or the structure of the vehicle. The language harmonizes with that of Transport Canada's Regulation 210.2, ''Lower Universal Anchorage Systems for Restraint Systems and Booster Cushions'' (Standard 210.2), which specifies that ''A lower universal anchorage system installed in a row of designated seating positions shall not separate completely from the vehicle seat or seat anchorage or the structure of the vehicle when tested'' by pulling with a force of 15,000 N (''Strength Requirements'').

The establishment of a displacement limit for the static strength test that is both objective and related directly to the safety performance of the system is difficult for many reasons. Standard No. 225 permits tether anchorages to be located in a wide range of vehicle locations relative to the placement of the child restraint itself, *e.g.*, on the rear filler panel, on the floor, on the roof, etc. Because of this design latitude, the forces applied through the tether strap on the SFAD test device to the anchorages themselves vary widely in both magnitude and direction. As such, the measurement of displacement of the tether anchorage—either in a horizontal direction or in a direction in line with the application of force—may or may not be relevant to the performance of the child restraint. On the other hand, if the anchorage does not structurally fail during the very slow (27 ± 3 seconds) application of force (''withstands'' the force) during the static compliance test, the agency is confident that the same anchorage will perform well in dynamic crash conditions. As noted above, the criteria adopted today are comparable to those Transport Canada incorporated into that country's final regulation on universal child restraint anchorage systems.

2. Strength of Lower Anchorages

i. 11,000 N Requirement. The 11,000 N force level was supported by test data obtained from Transport Canada. Canada performed 48.3 km/h (30 mph) dynamic testing of a 6-year-old child dummy in a 17 lb booster that was attached to the vehicle seat assembly by rigid LATCH attachments on the child restraint. Dynamic loads recorded at one lower bar was approximately 5,500 N, resulting in what the agency believed to be a combined dynamic load of about 11,000 N.

The Alliance petitioned for reconsideration of the strength requirement, believing that an 8,000 N load application in the forward direction is sufficient for motor vehicle safety. The reasons underlying the petitioner's view were the same ones discussed above regarding the 15,000 N requirement for testing tether anchorages. NHTSA is denying the petitioner's request, for the same reasons the agency has denied the request to reduce the tether anchorage requirements.

NHTSA has regarded the test of the two lower LATCH anchorages as a misuse test. Specifying that the tether anchorage would not be attached in the test was consistent with the agency's objective of ensuring that the child restraint anchorages system will retain the child restraint system in the event that the tether is misused or not used at all (64 FR 10805). Lower performance requirements could be justified for the misuse situation, since the full performance of the safety system is not being assessed. There are precedents in the agency's safety standards where NHTSA tests in a misuse condition to ensure a minimum level of performance if misuse occurs, and imposes less stringent performance requirements for that test. (See, *e.g.,* S6.1.1(b)(2) of Standard No. 213, Test Configuration II, which is a 20 mph misuse test of certain child restraints. Test Configuration II is used to assess the performance of child restraints in misuse conditions such as: tether unattached, and a fixed or movable surface in front of test dummy unbuckled.)

In assessing the Alliance's petition for reconsideration of the lower anchorage strength requirement, NHTSA recognizes that the crash forces transmitted to the child and CRS through the LATCH anchorage system would be the same regardless of whether the CRS is attached to the vehicle via the LATCH (tethers plus lower anchorages) or only the lower anchorages. We continue to stress the need to install child restraints (convertible and forward-facing CRS) properly by securing them to the vehicle by the full LATCH system, or with a tether and seat belt, in order to obtain the full protective benefit of the restraint system. The agency also plans to revise *Buying A Safer Car For Child Passengers* and other consumer information materials to better educate parents and caregivers about the added level of protection afforded by the tether. As part of the agency's efforts to inform consumers, new LATCH literature has been developed that explains the use of the new system. Additionally, the agency's training curriculum is being updated and revised to ensure that all trained child passenger safety technicians are properly informed that using the tether enhances the safety benefits of child restraints.

The March 1999 final rule, however, allows convertible cars and school buses to meet the CRS anchorage requirements by installing only the lower LATCH anchorages due to the practical difficulties concerning the installation of tether anchorages on these vehicles. In view of several interpretations concerning positioning of tether anchorages in locations that are recessed into the seat back or under the seat itself, the agency wants to reconsider the practicability issue and is interested in information showing the degree of difficulty of installing tether anchorages on those vehicles. The zone in which the tether anchorage may be located as specified in the standard is relatively large, possibly affording vehicle manufacturers wide latitude in designing viable alternatives.

Further, the agency is planning to issue a notice in the future addressing a new generation school bus occupant protection system. The agency is evaluating alternative restraint systems and seating systems to determine the feasibility of requiring these in school buses. The agency will address the feasibility and need to incorporate tether anchorages on school buses as part of that work.

In addition, the agency is also considering whether to require tethers on all child restraints. Standard No. 213 does not require tethers per se. Instead, the standard subjects forward-facing child restraints to a 720 mm (28-inch) head excursion limit, which a restraint may meet tethered. (An 813 mm (32-inch) head excursion limit must be met untethered.) Child restraints that have LATCH attachments able to meet the 720 mm head excursion limit without a tether, and that do not have a tether, will not be able to take advantage of the superior performance of the vehicle's full 3-point LATCH system. For this reason, the agency is interested in information on requiring tethers on all forward-facing child restraints, to the extent practicable.

ii. Displacement Limit. The Alliance petitioned for reconsideration of the 125 mm displacement limit specified in S9.4.1. We responded to its petition on this issue by denying the suggestion to replace the displacement limit with an alternative that the anchorage ''withstand'' the required forces, because a displacement limit is more objective than the latter in determining whether an anchorage met the performance criteria. 64 FR at 47576. The Alliance petitioned again following the denial (docket 6160–11). Petitioner stated that the displacement limit ''effectively curtails the options available to the restraint system designer to manage crash energy and provide protection to the occupant.'' Petitioner stated that lower excursion limits subject occupants to higher accelerations. The Alliance stated (6160–11):

> Allowing the occupant to undergo displacement during impact, as is done with a seat belt load limiter, is a powerful way to limit occupant accelerations and the associated injury potential. If an occupant strikes an object in a vehicle, high accelerations may result. This is a motivation to limit excursion. However, restricting all vehicles to an excursion limit of 125 mm denies restraint system designers flexibility to manage crash energy in a way that takes advantage of available space. Many vehicles used to transport children (minivans, sport utility vehicles, quad-cab style trucks, etc.) have large rear seating areas. Such vehicles have the space necessary to permit larger excursions of a CRS without an increased risk of interior impact. A fixed limit of 125 mm of excursion does not allow the available space to be used to its full potential.

The Alliance suggested an alternative approach to the 125 mm displacement limit for the forward strength test (S9.4.1(a)). Petitioner suggested that displacement should be permitted to vary from 125 to 200 mm, depending on the clearance that is in the vehicle's rear seat (the distance between the rearward surface of the front seat back to the forward surface of the rear seat back). This assumed a maximum applied load of 8,000 N. The petitioner explained that 50 mm more excursion would reduce the dynamic force on the child/CRS system since the energy is absorbed by motion through a greater distance. Petitioner explained that 50 mm more would reduce a 23 g force to 16 g.

NHTSA has granted this petition in part. We are increasing the 125 mm displacement limit of S9.4.1(a) for the forward pull test. Instead of varying displacement depending on available rear seat clearance, the agency has decided to increase the displacement limit to 175 mm. A single value of 175 mm would increase the ease with which a compliance test could be conducted. Increasing the displacement limit to 175 mm would increase manufacturers' ability to limit accelerations while keeping the test as objective as possible. The 175 mm displacement limit is established to provide a limit at the 11,000 N loading level that is consistent with the petitioner's suggested 125 mm displacement limit at the 8,000 N loading level (Docket 6160–11).

The Alliance also suggested an alternative approach to the 125 mm displacement limit for the lateral strength tests (S9.4.1(b)). Petitioner suggested that displacement should be 125 mm for outboard seating positions (see definition, 49 CFR 571.3) and 150 mm for positions other than outboard seating positions. The reasons for the suggestion are the same as those discussed for the forward pull test (S9.4.1(a)).

NHTSA has granted this request and has increased the displacement limit for positions other than outboard seating positions from 125 mm to 150 mm. A single value of 150 mm would increase the ease with which a compliance test could be conducted. An increase of 25 mm would allow manufacturers the ability to use displacement to better manage the crash forces on the child/CRS system without sacrificing safety.

iii. Ten-Second Hold Time. The test procedures for the strength test of the lower LATCH anchorages are set forth in S11of Standard No. 225. S11(a) specifies that the 11,000 N load is applied in the forward direction as linearly as practicable from a 500 N preload to a full force application of 11,000 N in not less than 24 seconds and not more than 30 seconds, and maintained at an 11,000 N level for 10 seconds. S11(b) specifies the same procedure for the lateral force test, except that the full force application is 5,000 N.

The Alliance petitioned for reconsideration of the force application profile for the lower anchorages. Petitioner requested that FMVSS No. 225 be revised to permit the manufacturer latitude in specifying the period of time in which the force is applied, within 30 seconds, as long as the rate does not exceed 135,000 N/s. Transport Canada permits the vehicle manufacturer to select the force application time. Further, the draft ISO test procedure requires the force to be applied in 2 seconds. Thus, the Alliance contended that lower anchorages would have to be tested to different conditions since no single test can be performed to satisfy all regulatory requirements. The Alliance wanted Standard No. 225's test procedure to allow manufacturers to select the force application time.

In the August 1999 final rule, we denied the petitioner's request that manufacturers be permitted to specify the force application rate based on our belief that the force should be applied at a constant rate for as long a time period as possible. This is to assure that the test adequately measures the strength of the anchorage. Metal structures generally can withstand greater forces under a faster rate of application than under a slower one. This means that an anchorage that fails when the required force is reached after 30 seconds might not fail if the required force is reached in a very short period of time. Adopting the petitioner's request could have allowed the use of weaker anchorages, resulting in a possible reduction of safety.

We also explained that the application rate is justified also because Standard No. 225 uses a laboratory test instead of a crash test to measure the strength of child restraint anchorages. Safety requirements can evaluate the performance of vehicle safety equipment by providing for test conditions that are structured to ensure the safety equipment will perform adequately in actual crash conditions without simulating those conditions. Test conditions that do not simulate actual crash conditions are developed generally when it would be infeasible or too costly to design and/or implement any single test procedure or series of test procedures that reasonably simulates the conditions to which the safety equipment will be exposed, including possible crash conditions and possible degradation over time because of exposure to environmental factors. The test conditions specified for this type of safety requirement are intended to subject the vehicle safety equipment to force or exposure levels that are sufficiently high that one can reasonably

conclude that the equipment is unlikely to fail as a result of exposure to even severe crash conditions or environmental exposures. Such test conditions are necessarily more severe than typical crash conditions, to ensure a margin of safety in the standard. That is, even if the test conditions were not directly representative of actual crash conditions, the test conditions are so demanding that one can confidently predict that equipment that withstands the test conditions will withstand most crash conditions, even severe crash conditions.

The specification to apply the test load over 27 ± 3 seconds is not intended to be representative of an actual crash condition. Instead, it represents a test condition intended to be sufficiently demanding to ensure that the anchorage will not fail even under the most severe crash conditions. Thus, NHTSA denies the petitioner's request to revise the 27 ± 3 second load application.

On the other hand, the 10 second hold time for the full load application in Standard No. 225 is reduced to 1 second. A 1-second hold time is currently specified for the tether anchorage test of Standard No. 225 (S8.1(c)(3)). The agency has determined that this change is not likely to result in a reduction of safety. A 1-second hold time is still much longer than an actual crash event, which lasts typically 250 milliseconds, and will allow for scrutiny of the performance of the anchorages. In addition, the agency believes that much of the changes in the anchorages' material structure will occur during the 27 ± 3 seconds load application. The agency notes that this amendment harmonizes the hold time with a Transport Canada requirement that has been in place for many years regarding tether anchorages. Accordingly, S11(a) and (b) are revised to specify that the loads are held for 1 second.

3. Phasing-In Strength Requirements

The period during which vehicle manufacturers may meet the Canadian and draft ISO requirements for tether and lower LATCH anchorages, respectively, is currently scheduled to end on August 31, 2004. That means that, absent further amendment, vehicles manufactured on or after September 1, 2004 will have to meet the 15,000 and 11,000 N strength requirements for those anchorages. This final rule provides more time to manufacturers to meet the requirements for a few model lines.

The agency is providing additional time because this final rule makes several important amendments to requirements of the standard relating to how the 15,000 and 11,000 N loads are applied and how the agency determines compliance with the requirements. Examples of these are the change from the 125 mm displacement criterion for the tether anchorage to one that determines whether the anchorage withstood the force by assessing the deformation of the structure; and the change in the load application rate for the 11,000 N load for the lower anchorages from 10 seconds to 1 second. The agency has determined that these changes may necessitate the reassessment by manufacturers of some vehicle models as to whether the vehicles comply with the amended standard. Further, some manufacturers may need more time than the period from now until August 31, 2004 to make whatever changes are needed to the structure of the vehicles to meet the new requirements.

This final rule gives vehicle manufacturers an additional year, for a few model lines, to assess whether their vehicles meet this rule's amended strength requirements and to make necessary changes to meet the requirements. Ninety (90) percent of the vehicles they manufacture on or after September 1, 2004 and before September 1, 2005 must be certified as meeting the amended strength requirements. One hundred (100) percent of the vehicles manufactured on or after September 1, 2005 must be certified as meeting the requirements. For final-stage manufacturers, alterers and small volume manufacturers, this rule permits these manufacturers to meet the Canadian or draft ISO requirements for all their vehicles until September 1, 2005. These phase-in requirements are set forth in a new S16 that is added to the standard. Reporting requirements implementing the phase-in are also set forth in Part 596.

4. Superwebbing

The March 1999 final rule specified that the SFAD have a tether strap that attaches to the vehicle's tether anchorage. The rule specified that the tether strap consists of webbing that must meet the breaking strength and elongation limits for lap belt assemblies, specified in Standard No. 209, ''Seat Belt Assemblies'' (49 CFR 571.209). The Alliance petitioned for reconsideration of this decision, stating that there is too much variation in elongation of the webbing to test the tether anchorage. NHTSA responded to the petition in the August 1999 final rule, by stating that it will use a steel cable to attach the SFAD to the tether anchorage. The agency believed that test complications due to elongation of a strap would be minimized if a steel cable were used.

Ford and the Alliance petitioned for reconsideration of the use of steel cable. Petitioners stated that using cable results in a less realistic test, and the displacement measured in such a test would not be representative of real world tether anchor/strap performance. The Alliance suggested specifying a narrow range of elongation, such as between 2 and 4 percent (Docket 6160–21) at a tensile load of 14,490 lb. The Alliance also petitioned NHTSA to include a specification to pretension all belt systems, including the tether strap, prior to testing.

Today's final rule changes the specification for use of steel cable and specifies use of webbing material with an elongation limit of 4 percent at a tensile load of 65 kN (14,612 lb). This rule includes the requirement to pretension the tether strap prior to the test.

5. Technical Amendments

i. SFAD 2. In a petition for reconsideration, Mitsubishi noted that Figure 17 of FMVSS No. 225, which depicts the dimensions of the SFAD 2 test device, only specifies a tether attachment point somewhere near the top of the device. Mitsubishi believed that leaving the specific location of the attachment point and the shape and radius of the hole to the discretion of each vehicle manufacturer and test laboratory will lead to wide variation in the loading conditions in tether anchorage testing. Mitsubishi requested NHTSA to identify specific requirements for the location and dimensions of the SFAD 2 tether attachment point.

We have revised Figure 17 to make it clear that the tether attachment point on SFAD 2 is the same as on the SFAD 1 test device depicted in Figures 12 to 15 of FMVSS No. 225, both in location and dimension.

ii. Tether Anchorage Zone. In S6.2.1 of Standard No. 225 states: ''* * * the part of each tether anchorage that attaches to a tether hook must be located within the shaded zone shown in Figures 3 to 7 of this standard * * *.'' Figure 3 shows the front edge of the zone as extending along the torso line reference plane under the seat and then following the contour of the vehicle seat bottom and seat back up to a point on the seat back. In a letter to the agency, American Suzuki Motor Company noted that Figures 3 to 7 of Standard No. 225 did not provide dimensions as to the location of the front edge of the shaded zone, except with regard to the ''strap wrap-around area'' at the top of a

vehicle seat back. Suzuki asked whether the standard permitted an anchorage to be located in the recessed area of the seat back.

In a November 8, 2002 interpretation letter, the agency stated NHTSA did not intend to exclude part of the seat back from the shaded zone. Thus, a tether anchorage that is recessed in the seat back is permitted. However, the agency stated, the shaded zone does not include the strap wrap-around area at the top of the vehicle seat back, so the anchorage must not be located in that wrap-around area. In reply to another question from Suzuki, NHTSA also stated that for the area under the vehicle seat, the forwardmost edge of the shaded zone is defined by the torso line reference plane. Today's final rule makes a technical amendment to S6.2.1 to clarify the standard with respect to these provisions.

g. Denial of Petition on Backless Booster Systems

The March 1999 final rule generally required all child restraint systems to be equipped with components that attach to a vehicle's LATCH system (this section refers to these components as ''LATCH components'') (S5.3.1 of Standard No. 213). The rule excluded belt-positioning seats from the requirement. Standard No. 213 defines ''belt-positioning seat'' as:

> a child restraint system that positions a child on a vehicle seat to improve the fit of a vehicle Type II belt system on the child and that lacks any component, such as a belt system or a structural element, designed to restrain forward movement of the child's torso in a forward impact.

Belt-positioning seats were excluded from the requirement because these seats do not have compatibility problems attaching to the vehicle seat using seat belts. They simply form a seating platform for the child. No part of the child seat restrains forward movement of the child. The vehicle's seat belts are used to restrain the child, just as they are used on other occupants, and are not used to attach the child restraint to the vehicle seat.

Belt-positioning seats and ''backless child restraint system'' are both ''booster seats'' under Standard No. 213. ''Backless child restraint system'' means:

> a child restraint, other than a belt-positioning seat, that consists of a seating platform that does not extend up to provide a cushion for the child's back or head and has a structural element designed to restrain forward motion of the child's torso in a forward impact.

Cosco, Inc., petitioned the agency to reconsider not excluding backless child restraints from the requirement that the restraints must be equipped with LATCH components. Cosco manufactures a backless child restraint that uses a shield-like structural element to restrain a child occupant's torso in a frontal collision. (These restraint systems are commonly called ''shield boosters.'')[11] Petitioner believed that shield boosters are similar to belt-positioning boosters because they ''rely upon the type 1 or type 2 seat belt assembly to restrain the occupant. This requires that the person seating the child in the restraint system buckle and unbuckle the vehicle seat belt assembly each time the product is used.'' Accordingly, Cosco believed that requiring that backless booster seats incorporate LATCH components ''is inconsistent with its [the rule's] exclusion of backless belt-positioning booster seats * * *.''

The agency is denying Cosco's petition. NHTSA disagrees with Cosco that backless booster seats are sufficiently similar to belt-positioning seats that they should be excluded from having LATCH components. One of the purposes of Standard No. 225 and the complementary provisions in Standard No. 213 was to free seat belts from having to fulfill two functions. The primary purpose of seat belts has always been to protect older children, teenagers and adults from serious injury in vehicle crashes. A secondary purpose of seat belts has been to install child restraints in vehicles. Attempting to design seat belts to achieve the first purpose has sometimes led to design choices that may have made it more difficult for the belts to achieve the second purpose (tightly securing a child restraint). The LATCH system will help vehicle and seat belt manufacturers to more effectively optimize seat belts to restrain older children, teenagers and adults.

Belt-positioning seats were excluded from the LATCH program because they do not tax seat belts to perform a dual function. The seats improve the ability of seat belts to perform their primary purpose, which is to protect the child occupant from serious injury. Belt-positioning seats do not call upon the seat belt to attach the child restraint to the vehicle in any manner. In contrast, shield boosters rely on seat belts to assist in restraining the child *and* to attach the child restraint to the vehicle seat. This dependency on seat belts to perform the latter function potentially restricts the ability of seat belts to perform their primary function. Further, as vehicle manufacturers begin to optimize seat belts for the protection of older children, teens and adults, some belt designs may be hard for motorists to use to attach a backless booster seat to a vehicle seat. The dependency of backless booster seats on vehicle seat belts to attach the child restraints is what the LATCH rulemaking sought to prevent. Accordingly, petitioner's request is not consistent with the goals of the rulemaking and is hereby denied.

[11] Used with the shield, the restraint is recommended for children weighing between 30 and 40 lb. Cosco's backless child restraint, the ''Grand Explorer,'' is also designed so that the shield can be removed, to convert the restraint to a belt-positioning seat. As a belt-positioning seat, the restraint is used with a vehicle's lap/shoulder (Type 2) belt system. Cosco's petition pertains to the configuration that the restraint is in with the shield in place (*i.e.,* as a ''backless child restraint system'').

III. Rulemaking Analyses And Notices

a. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' We have considered the impacts of this rulemaking action and have determined that this action is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. We have further determined that the effects of this rulemaking do not warrant preparation of a full final regulatory evaluation. This document resolves the remaining issues from the petitions for reconsideration of the final rules published in March and August 1999 and in July 2000. Manufacturers will be minimally affected by this rulemaking because generally it does not change the manufacturers' responsibilities to install tether anchorages and LATCH systems previously established by the March 1999, August 1999, and July 2000 final rules. This rule provides slightly more flexibility in how vehicle seat backs must be marked to identify the presence and location of the lower LATCH anchorages that are hidden from view. It also provides for greater leeway to recess the lower anchorages further rearward in the seat bight. This rule clarifies some requirements and test procedures, but overall does not impose new test burdens.

b. Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. This rule affects motor vehicle manufacturers, almost all of which are not small

businesses. Even if there are motor vehicle manufacturers that qualify as small entities, this rule will not have a significant economic impact on them because it generally does not change the manufacturers' responsibilities to install tether anchorages and LATCH systems on the compliance dates of the March 1999 and July 2000 final rules. Accordingly, the agency has not prepared a regulatory flexibility analysis.

c. Executive Order 13132 (Federalism)

This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule 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. Accordingly, NHTSA has determined that this final rule does not contain provisions that have federalism implications or that preempt State law.

d. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This rule does not impose any unfunded mandates as defined by that Act.

e. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113),

> all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.

In developing Standard No. 225, we searched for standards developed or adopted by voluntary consensus standards bodies and found that the only standard for a child restraint anchorage system was a draft standard developed by the International Organization for Standardization (ISO). ISO is a worldwide voluntary federation of ISO member bodies. In responding to petitioners for reconsideration, we considered the draft ISO standard to guide our decision-making to the extent consistent with the Safety Act. The notable differences between the draft ISO standard and Standard No. 225 are discussed in the March 1999 final rule (64 FR 10801–10802) and the August 1999 final rule (footnote 10, 64 FR 47570). Regarding today's final rule, the most significant of these are the magnitude of the force that is applied to the lower anchorages (8,000 N instead of 11,000 N); the rate that the force is applied to the lower anchorages in a compliance test (the draft ISO standard specifies that the force is fully applied within a time period of two seconds or less, while under our test procedure NHTSA specifies the rate and the time period for full application of the force may be up to 30 seconds); and the period of time that the force is held (the draft ISO standard specifies that the 8,000 N force is held for a period of 0.25 seconds, while we specify that the 11,000 N force is held for 1 second). NHTSA has determined that the 11,000 N force and the manner and period of time it is applied, are needed to represent a test condition that is sufficiently demanding to ensure that the anchorages will not fail even under the most severe crash conditions. We also considered the regulations developed by Transport Canada in making decisions about the standard's strength requirements.

f. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

g. Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

h. Paperwork Reduction Act

NHTSA has determined that phasing-in the strength requirements of this rule will impose new collection of information burdens within the meaning of the Paperwork Reduction Act of 1995 (PRA). Under the PRA, the agency must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each collection of information. The Office of Management and Budget (OMB) has promulgated regulations describing what must be included in such a document. Under OMB's regulations (5 CFR 320.8(d)), agencies must ask for public comment on the following:

(1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) how to enhance the quality, utility, and clarity of the information to be collected; and,

(4) how 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, *e.g.*, permitting electronic submission of responses.

In compliance with these requirements, NHTSA is publishing a document in today's **Federal Register** seeking public comment on the collection of information relating to the one-year phase-in of the strength requirement (Docket No. 02–14038).

i. Viewing Docket Submissions

You may read the comments received by Docket Management at Room PL–401, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–366–9324). You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If

the docket number were ''NHTSA–2002–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

List of Subjects

49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

49 CFR Part 596

Infants and children, Motor vehicle safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, NHTSA amends 49 CFR Chapter V as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.225 is amended by:
■ a. Adding S4.6;
■ b. Revising the introductory paragraph of S6.2.1;
■ c. Adding S6.2.1.2(c);
■ d. Revising the introductory paragraph of S6.3, S6.3.1, the introductory paragraph of S8, S8.1(b), S9, S9.1.1(b), S9.1.1(c);
■ e. Removing and reserving S9.1.1(d) and (e);
■ f. Revising S9.1.1(f);
■ g. Revising S9.2.1, S9.2.2 and S9.2.3;
■ h. Revising S9.4.1, S9.5(a)(2) and (a)(3);
■ i. Adding S9.5(a)(4);
■ j. Revising S9.5(b), S11(a) and (b);
■ k. Adding S16;
■ l. Revising Figure 17 and adding Figures 21 and 22.

■ The revised and added paragraphs and figures read as follows:

§ 571.225 Standard No. 225; Child restraint anchorage systems.

* * * * *

S4.6 *Adjustable seats.* (a) A vehicle that is equipped with a forward-facing rear designated seating position that can be relocated such that it is capable of being used at either an outboard or non-outboard forward-facing seating position shall be considered as having a forward-facing non-outboard seating position. Such an adjustable seat must be equipped with a tether anchorage (with or without the lower anchorages of a child restraint anchorage system) if the vehicle does not have another forward-facing non-outboard seating position that is so equipped.

(b) Tether and lower anchorages shall be available for use at all times, except when the seating position for which it is installed is not available for use because the vehicle seat has been removed or converted to an alternate use such as the carrying of cargo.

* * * * *

S6.2.1 Subject to S6.2.1.1 and S6.2.1.2, the part of each tether anchorage that attaches to a tether hook must be located within the shaded zone shown in Figures 3 to 7 of this standard of the designated seating position for which it is installed. The zone is defined with reference to the seating reference point (see § 571.3). (For purposes of the figures, ''H Point'' is defined to mean seating reference point.) A tether anchorage may be recessed in the seat back, provided that it is not in the strap wrap-around area at the top of the vehicle seat back. For the area under the vehicle seat, the forwardmost edge of the shaded zone is defined by the torso line reference plane.

* * * * *

S6.2.1.2(c) The measurement of the location of the flexible or deployable routing device described in S6.2.1.2(b)(1) is made with SFAD 2 properly attached to the lower anchorages. A 40 mm wide nylon tether strap is routed through the routing device and attached to the tether anchorage in accordance with the written instructions required by S12 of this standard. The forwardmost contact point between the strap and the routing device must be within the stated limit when the tether strap is flat against the top surface of the SFAD and tensioned to 55 to 65 N. In seating positions without lower anchorages of a child restraint anchorage system, the SFAD 2 is held with its central lateral plane in the central vertical longitudinal plane of the seating position. The adjustable anchor attaching bars of the SFAD 2 are replaced by spacers that end flush with the back surface of the SFAD.

* * * * *

S6.3 *Strength requirements for tether anchorages.* Subject to S6.3.2, a vehicle manufactured on or after September 1, 1999, and before September 1, 2004 may, at the manufacturer's option (with said option irrevocably selected prior to, or at the time of, certification of the vehicle), meet the requirements of S6.3.1 or S6.3.4. Vehicles manufactured on or after September 1, 2004 and before September 1, 2005 must meet the requirements of S6.3.1 of this standard, except as provided in S16 of this standard. Vehicles manufactured on or after September 1, 2005 must meet the requirements of S6.3.1.

S6.3.1 Subject to S6.3.2, when tested in accordance with S8, after preloading the device with a force of 500 N, the tether anchorage must not separate completely from the vehicle seat or seat anchorage or the structure of the vehicle.

* * * * *

S8 *Test procedures.* Each vehicle shall meet the requirements of S6.3.1 and S6.3.3 when tested according to the following procedures. Where a range of values is specified, the vehicle shall be able to meet the requirements at all points within the range. For the testing specified in these procedures, the SFAD used in the test has a tether strap consisting of webbing material with an elongation limit of 4 percent at a tensile load of 65,000 N (14,612 lb). Pretension the tether strap with 53.5 N to 67 N of preload prior to the test. The strap is fitted at one end with a high strength steel tether hook for attachment to the tether anchorage. The tether hook meets the specifications in Standard No. 213 (49 CFR § 571.213) as to the configuration and geometry of tether hooks required by the standard. A steel cable is connected to the X point through which the test force is applied.

* * * * *

(b) Attach the SFAD 1 to the vehicle seat using the vehicle belts or the SFAD 2 to the lower anchorages of the child restraint anchorage system, as appropriate, and attach the test device to the tether anchorage, in accordance with the manufacturer's instructions provided pursuant to S12 of this standard. For the testing specified in this procedure, if SFAD 1 cannot be attached using the vehicle belts because of the location of the vehicle belt buckle, the test device is attached by material whose breaking strength is

equal to or greater than the breaking strength of the webbing for the seat belt assembly installed as original equipment at that seating position. The geometry of the attachment duplicates the geometry, at the pre-load point, of the attachment of the originally installed seat belt assembly. All belt systems (including the tether) used to attach the test device are tightened to a tension of not less than 53.5 N and not more than 67 N on the webbing portion of the belt. For SFAD 1, apply a rearward force of 135 N ± 15 N, in a horizontal plane through point ''X'' of SFAD 1. While maintaining the force, tighten the vehicle seat belt to a tension of not less than 53.5 N and not more than 67 N measured at the lap portion of the seat belt and maintain the tension during the preload, lock the seat belt retractor, and tighten the tether belt strap to remove all slack. A rearward force of 135 N ± 15 N is applied to the center of the lower front crossmember of SFAD 2 to press the device against the seat back as the fore-aft position of the rearward extensions of the SFAD is adjusted to remove any slack or tension.

* * * * *

S9 *Requirements for the lower anchorages of the child restraint anchorage system.*

As an alternative to complying with the requirements of S9, a vehicle manufactured on or after September 1, 1999 and before September 1, 2004 may, at the manufacturer's option (with said option irrevocably selected prior to, or at the time of, certification of the vehicle), meet the requirements in S15 of this standard. Vehicles manufactured on or after September 1, 2004 and before September 1, 2005 must meet all of the requirements of S9 of this standard, except as provided in S16 of this standard with regard to S9.4. Vehicles manufactured on or after September 1, 2005 must meet all the requirements of S9 of this standard.

S9.1 *Configuration of the lower anchorages.*

S9.1.1 * * *

(b) Are straight, horizontal and transverse;

(c) Are not less than 25 mm, but not more than 50 mm in length (as shown in Figure 21);

(d)–(e) [Reserved]

(f) Are part of the vehicle, such that they can only be removed by use of a tool, such as a screwdriver or wrench; and

* * * * *

S9.2.1 The anchorage bars are located at the vehicle seating position by using the CRF rearward extensions, with the CRF placed against or near the vehicle seat back. With the CRF attached to the anchorages and resting on the seat cushion, the bottom surface shall have attitude angles within the limits in the following table, angles measured relative to the vehicle horizontal, longitudinal and transverse reference planes.

TABLE TO S9.2.1

Pitch	15° ± 10°
Roll	0° ± 5°
Yaw	0° ± 10°

Note: An explanation of the above angles is given in Figure 1.

S9.2.2 With adjustable seats adjusted as described in S9.2.3, each lower anchorage bar shall be located so that a vertical transverse plane tangent to the front surface of the bar is:

(a) Not more than 70 mm behind the corresponding point Z of the CRF, measured parallel to the bottom surface of the CRF and in a vertical longitudinal plane, while the CRF is pressed against the seat back by the rearward application of a horizontal force of 100 N at point A on the CRF; and

(b) Not less than 120 mm behind the vehicle seating reference point, measured horizontally and in a vertical longitudinal plane.

S9.2.3 Adjustable seats are adjusted as follows:

(a) Place adjustable seat backs in the manufacturer's nominal design riding position in the manner specified by the manufacturer; and

(b) Place adjustable seats in the full rearward and full downward position.

* * * * *

S9.4.1 When tested in accordance with S11, the lower anchorages shall not allow point X on SFAD 2 to be displaced horizontally more than the distances specified below, after preloading the device—

(a) 175 mm, when a force of 11,000 N is applied in a forward direction in a vertical longitudinal plane; and

(b) 150 mm, for lower anchorages that are in an outboard designated seating position, or 150 mm, for lower anchorages that are in a seating position other than an outboard designated seating position, when a force of 5,000 N is applied in a lateral direction in a vertical longitudinal plane that is 75 ± 5 degrees to either side of a vertical longitudinal plane.

* * * * *

(2) That is either solid or open, with or without words, symbols or pictograms, provided that if words, symbols or pictograms are used, their meaning is explained to the consumer in writing, such as in the vehicle's owners manual; and

(3) That is located such that its center is on each seat back between 50 and 75 mm above or on the seat cushion 100 ± 25 mm forward of the intersection of the vertical transverse and horizontal longitudinal planes intersecting at the horizontal centerline of each lower anchorage, as illustrated in Figure 22. The center of the circle must be in the vertical longitudinal plane that passes through the center of the bar (± 12 mm).

(4) The circle may be on a tag, provided that the tag is sewn on at least half of its border.

(b) The vehicle shall be configured such that the following is visible: Each of the bars installed pursuant to S4, or a permanently attached guide device for each bar. The bar or guide device must be visible without the compression of the seat cushion or seat back, when the bar or device is viewed, in a vertical longitudinal plane passing through the center of the bar or guide device, along a line making an upward 30 degree angle with a horizontal plane. Seat backs are in the nominal design riding position. The bars may be covered by a removable cap or cover, provided that the cap or cover is permanently marked with words, symbols or pictograms whose meaning is explained to the consumer in written form as part of the owner's manual.

* * * * *

(a) *Forward force direction.* Place SFAD 2 in the vehicle seating position and attach it to the two lower anchorages of the child restraint anchorage system. Do not attach the tether anchorage. A rearward force of 135 ± 15 N is applied to the center of the lower front crossbar of SFAD 2 to press the device against the seat back as the fore-aft position of the rearward extensions of the SFAD is adjusted to remove any slack or tension. Apply a preload force of 500 N at point X of the test device. Increase the pull force as linearly as practicable to a full force application of 11,000 N in not less than 24 seconds and not more than 30 seconds, and maintain at an 11,000 N level for 1 second.

(b) *Lateral force direction.* Place SFAD 2 in the vehicle seating position and attach it to the two lower anchorages of the child restraint anchorage system. Do not attach the tether anchorage. A rearward force of 135 ± 15 N is applied to the center of the lower front crossbar of SFAD 2 to press the device against the seat back as the fore-aft position of the rearward extensions of the SFAD is adjusted to remove any slack or tension. Apply a preload force of 500 N at point X of the test device. Increase the pull force as linearly as practicable to a full

force application of 5,000 N in not less than 24 seconds and not more than 30 seconds, and maintain at a 5,000 N level for 1 second.

* * * * *

S16. *Phase-in of strength requirements for vehicles manufactured on or after September 1, 2004 and before September 1, 2005.* At anytime during the production year ending August 31, 2004, each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model and vehicle identification number) that have been certified as complying with S6.3.1 or S6.3.4, and with S9.4 or S15.2 and S15.3. The manufacturer's designation of a vehicle as meeting the particular requirement is irrevocable.

S16.1 *Tether anchorage phase-in of strength requirements.* For vehicles manufactured on or after September 1, 2004 and before September 1, 2005, the number of vehicles complying with S6.3.1 shall be not less than 90 percent of:

(a) the manufacturer's average annual production of vehicle manufactured on or after September 1, 2001 and before September 1, 2004; or

(b) the manufacturer's production on or after September 1, 2003 and before September 1, 2004.

S16.2 *Lower anchorages phase-in of strength requirements.*

For vehicles manufactured on or after September 1, 2004 and before September 1, 2005, the number of vehicles complying with S9.4 shall be not less than 90 percent of:

(a) The manufacturer's average annual production of vehicle manufactured on or after September 1, 2001 and before September 1, 2004; or

(b) The manufacturer's production on or after September 1, 2003 and before September 1, 2004.

S16.3 *Vehicles produced by more than one manufacturer.*

S16.3.1 For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S16.1 and S16.2, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to S16.3.2.

(a) A vehicle which is imported shall be attributed to the importer.

(b) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer that markets the vehicle.

S16.3.2 A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR Part 596, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S16.3.1.

S16.4 *Alternative phase-in schedules.*

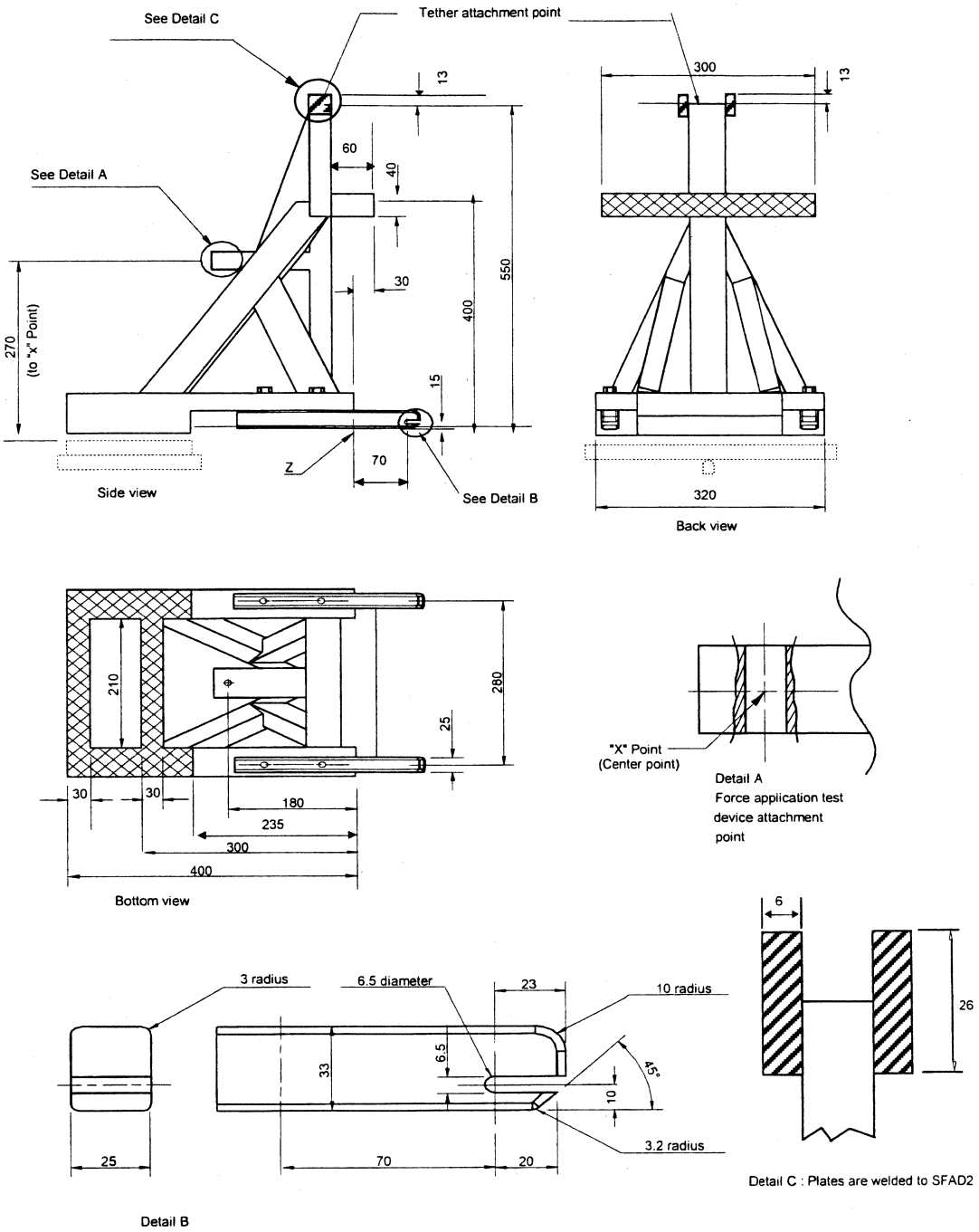
(a) *Final-stage manufacturers and alterers.* A final-stage manufacturer or alterer may, at its option, comply with the requirements set forth in S16.4(a)(1) and (2), instead of the requirements set forth in S16.1 through S16.2.

(1) Vehicles manufactured on or after September 1, 2004 and before September 1, 2005 may meet the requirements of S6.3.4 instead of S6.3.1, and may meet the requirements of S15.2 and S15.3 instead of S9.4.

(2) Vehicles manufactured on or after September 1, 2005 must meet the requirements of S6.3.4 and S9.4.

(b) *Small volume manufacturers.* Vehicles manufactured on or after September 1, 2004 and before September 1, 2005 that are manufactured by a manufacturer that produces fewer than 5,000 vehicles worldwide annually may meet the requirements of S6.3.4 instead of S6.3.1, and may meet the requirements of S15.2 and S15.3 instead of S9.4. Vehicles manufactured on or after September 1, 2005 must meet the requirements of S6.3.4 and S9.4.

BILLING CODE 4910–59–P



Notes:

1. Drawing not to scale
2. Dimensions in mm, except where otherwise indicated
3. Device stiffness satisfied when using a securely welded construction consisting of rectangular 3 mm steel tubing and 6 mm thick load application plate
4. If construction not as per note 3, stiffness of device is satisfied if movement of point "X" is not more than 2 mm in any direction when forces are applied as specified in S15.2.1, with device attached to rigid anchorage bars and the front cross member supported by a rigid bar that is held at the center by a longitudinal pivot 25 mm below the SFAD2 base (as shown in broken lines) to allow bending and twisting of the base of the device. Any deformation of the anchorage bars to be excluded from the measurements of the movement of point "X".

Figure 17- Side, Back and Bottom Views, ISO 13216-1 Static Force Application Device 2 (SFAD 2)

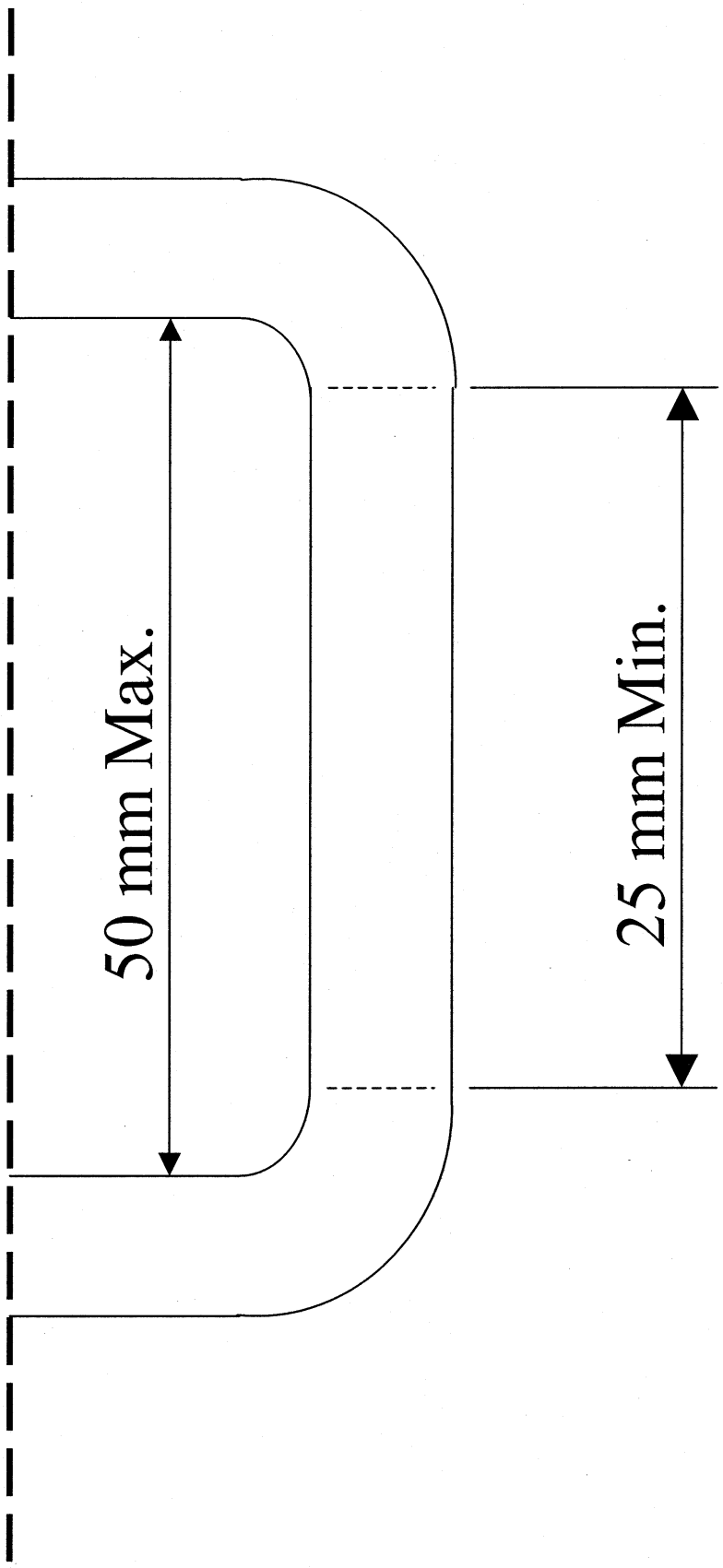
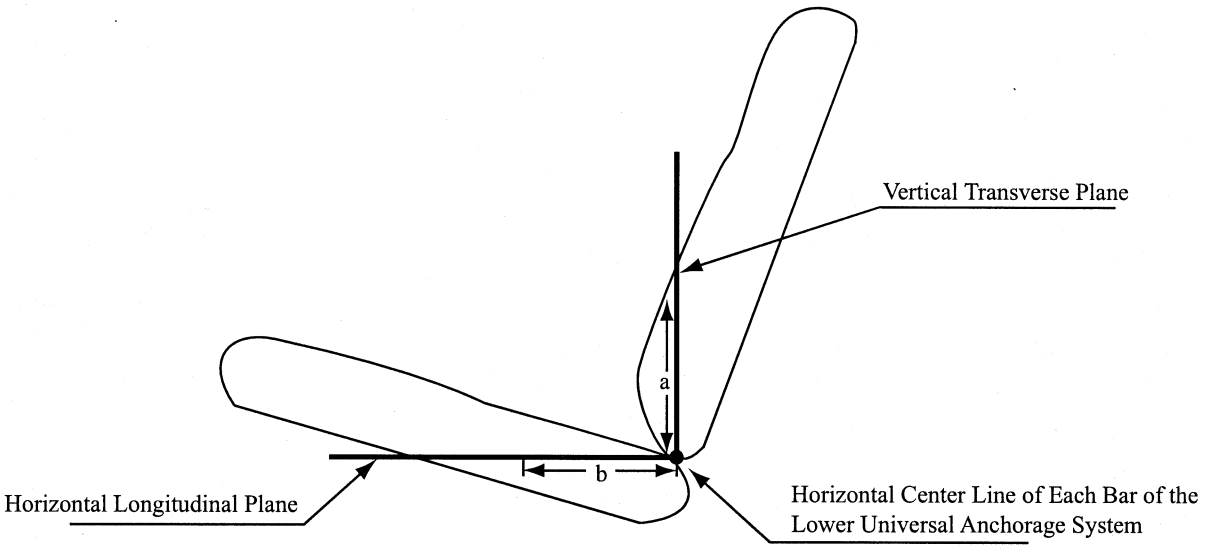


Figure 21—Length of Lower Anchorages



Notes:

1. Drawing not to scale.
2. 50 mm ≤ a ≤ 75 mm.
3. b = 100 mm ± 25 mm.

Figure 22. Placement of Symbol on the Seat Back and Seat Cushion of a vehicle

PART 596—CHILD RESTRAINT ANCHORAGE SYSTEMS PHASE-IN REPORTING REQUIREMENTS

■ 3. The authority citation for Part 596 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 4. Part 596 is amended by revising §§ 596.5 introductory test, 596.6(b)(2), and 596.7, to read as follows:

§ 596.5 Response to inquiries.

At anytime during the production years ending August 31, 2000, August 31, 2001, August 31, 2002, and August 31, 2005, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the child restraint anchorage system requirements of Standard No. 225 (49 CFR 571.225) for its passenger cars, trucks, buses, and multipurpose passenger vehicles produced in that year. Each report shall—

* * * * *

§ 596.6 Reporting requirements.

* * * * *

(b) * * *

(2) *Production.* (i) Each manufacturer shall report for the production year for which the report is filed, except for the production year ending August 31, 2005: the number of passenger cars and trucks and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 3,855 kilograms (kg) (8,500 pounds) or less, and buses with a GVWR of 4,536 kg (10,000 pounds) or less, that meet Standard No. 225 (49 CFR 571.225).

(ii) Each manufacturer shall report for the production year ending August 31, 2005: the number of passenger cars and trucks and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 3,855 kilograms (kg) (8,500 pounds) or less, and buses with a GVWR of 4,536 kg (10,000 pounds) or less, that meet S6.3.1 and S9.4 of Standard No. 225 (49 CFR 571.225).

* * * * *

§ 596.7 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 596.6(b)(2)(i) until December 31, 2004. Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 596.6(b)(2)(ii) until December 31, 2007.

Issued on June 19, 2003.

Jeffrey W. Runge,

Administrator.

[FR Doc. 03–15953 Filed 6–26–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 030303053–3118–02; I.D. 022403C]

RIN 0648–AQ70

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Revision of Charter Vessel and Headboat Permit Moratorium Eligibility Criterion; Correction

AGENCY: National Marine Fisheries Service, (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains a correction to the final rule implementing a corrected Amendment for the charter vessel/headboat permit moratorium established in Amendment 14 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 14) and in Amendment 20 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 20). This final rule was published on May 15, 2003. This correction adds regulatory text that was inadvertently removed in the final rule.

DATES: Effective June 24, 2003.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727–570–5305, fax: 727–570–5583, e-mail: Phil.Steele@noaa.gov..

SUPPLEMENTARY INFORMATION: The final rule that is the subject of this correction revises, consistent with the actions taken by the Gulf of Mexico Fishery Management Council (Council), one of the eligibility criteria for obtaining a charter vessel/headboat permit under the moratorium; reopens the application process for obtaining Gulf charter vessel/headboat moratorium permits and extends the applicable deadlines; extends the expiration dates of valid or renewable open access permits for these fisheries; clarifies, as requested by the Council, a constraint on issuance of historical captain permits under the moratorium; and extends the expiration date of the moratorium to account for the delay in implementation.

This correction adds regulatory text that was inadvertently removed in the May 15, 2003 (68 FR 26230) final rule. The proposed rule published on March 12, 2003 (68 FR 11794) made clear that paragraphs (1) through (8) of 50 CFR 622.4(r) were proposed to be revised, and that paragraphs (9) through (12) of that section would be retained without change. The final rule mistakenly directed the Office of the **Federal Register** to remove paragraphs (9) through (12) of § 622.4(r). No proposal was ever made to remove paragraphs (9) through (12). Thus, the public was never provided an opportunity to comment on their removal. Further, NMFS did not provide any explanation for the removal of those paragraphs in the ''Changes from the Proposed Rule'' section of the preamble to the May 15 final rule. Finally, § 622.4(r)(1) of the May 15 final rule clearly references paragraphs (r)(9) and (r)(10) of that section--two of the paragraphs that the final rule inadvertently removed.

Classification

This rule is a correction of an error in the final rule that made a change to the regulations for which the agency had not provided prior notice and an opportunity for comment. Moreover, this rule merely reinserts, without change, regulatory text that previously existed and was never intended to be removed. Finally, this rule will have little, if any, effect on the regulated community in that this correction is being made within days of the error becoming effective. As such, the Assistant Administrator (AA), NOAA, finds good cause, pursuant to authority at 5 U.S.C. 553(b)(B), to waive the requirement to provide prior notice and an opportunity for public comment as such procedures are unnecessary. Further, if the effective date of this rule to correct this error were to be delayed for 30 days the possibility that this error might have an effect on the regulated community increases. Thus, the AA finds good cause, pursuant to authority at 5 U.S.C. 553(d)(3) to waive the requirement for a 30–day delay in effective date for this rule.

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 PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 23, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2.In § 622.4, paragraphs (r)(9) through (r)(12) are added to read as follows:

§ 622.4 Permits and fees.

* * * * *

(r) * * *

(9) *Transfer of permits*—(i) *Permits without a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel, except that no transfer is allowed to a vessel with a greater authorized passenger capacity than that of the vessel from which the permit was transferred. The determination of authorized passenger capacity will be based on the USCG Certificate of Inspection or USCG Operator of Uninspected Passenger Vessel license associated with the vessels involved in the transfer. If no valid Certificate of Inspection is provided for a vessel, that vessel will be considered an uninspected vessel with an authorized passenger capacity restricted to six or fewer passengers.

(ii) *Permits with a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement may only be transferred to a vessel operated by the historical captain, cannot be transferred to a vessel with a higher authorized passenger capacity than the vessel from which the permit was transferred, and is not otherwise transferable.

(iii) *Procedure for permit transfer.* To request that the RA transfer a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the owner of a vessel that is to receive the transferred permit must complete the transfer information on the reverse side of the permit and return the permit and a completed application for transfer to the RA.

(10) *Renewal.* (i) Renewal of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish is contingent upon the permitted vessel

and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in one of the following—

(A) NMFS' Marine Recreational Fishing Vessel Directory Telephone Survey (conducted by the Gulf States Marine Fisheries Commission);

(B) NMFS' Southeast Headboat Survey (as required by § 622.5(b)(1));

(C) Texas Parks and Wildlife Marine Recreational Fishing Survey; or

(D) A data collection system that replaces one or more of the surveys in paragraph (r)(10)(i)(A)(B) or (C) of this section.

(ii) A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that is not renewed or that is revoked will not be reissued during the moratorium. A permit is considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

(11) *Requirement to display a vessel decal.* Upon issuance, renewal, or transfer of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the RA will issue the owner of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal must be displayed on the port side of the deckhouse or hull and must be maintained so that it is clearly visible.

(12) *Requirement and procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish*—(i) *General.* This paragraph (r)(12) explains the necessity of requiring and the procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of the Gulf and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under the moratorium established by paragraph (r) of this section necessitates that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established effective December 26, 2002, and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided effective as of that same date. The newly required charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish is not subject to the provisions of the moratorium in paragraphs (r)(1) through (11) of this section.

(ii) *Application for and issuance of an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish*—(A) *Owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish.* On or about June 28, 2002, the RA, based on NMFS' permit records, will mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish must submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners must submit the completed application to the RA postmarked or hand-delivered not later than September 26, 2002. For completed applications received by that deadline, the RA will issue the permit no later than December 16, 2002. Applications will be accepted at any time, but if received after the deadline, the permit may not be issued prior to the date that the permit is first required (i.e., December 26, 2002). These special procedures apply only to the application and issuance of the initial permit; subsequent permitting activities will be conducted in accordance with the standard permitting procedures as specified in paragraphs (b) through (l) of this section.

(B) *Owner or operator of a vessel without a valid charter vessel/headboat permit for coastal migratory pelagic fish.* An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish must obtain a permit application from the RA. For additional permitting procedures, see paragraphs (b) through (l)of this section.

[FR Doc. 03–16345 Filed 6–24–03; 3:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No.020325070–3159–06; I.D. 071299C]

RIN 0648–AM91

Atlantic Highly Migratory Species (HMS); Fishing Vessel Permits; Charter Boat Operations; Temporary Rule

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Temporary rule.

SUMMARY: This rule provides a mechanism to correct permit errors for a limited time after permit issuance for all Atlantic Tunas and Atlantic HMS permit holders, excluding Atlantic Tunas longline and Purse seine category permits. This mechanism is meant to provide relief for those vessel operators who were issued permits incorrectly due to confusion resulting from the establishment of the new HMS Angling category, unfamiliarity with the automated permit system, or possible administrative error.

DATES: Effective June 23, 2003, through December 31, 2003. All permit category corrections for Atlantic Tunas and HMS permits issued prior to or on June 23, 2003 must be made by July 3, 2003. All permit category corrections for permits issued subsequent to June 23, 2003 must be made within 10 days of the date of the issuance of the permit.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown or Brad McHale at 978–281–9260.

SUPPLEMENTARY INFORMATION: A final rule published on December 18, 2002 (67 FR 77434), established a new HMS Angling category vessel permit. This new permit category authorizes recreational anglers to fish for, possess, and retain HMS. Further, the final rule specified that the Atlantic Tunas General category permit, a commercial handgear category, would not authorize persons aboard a vessel to fish for, possess, or retain billfish, swordfish, or sharks in the recreational fisheries. The final rule also re-specified that permit category changes could not be made after a permit is issued for a fishing year. A temporary rule that was published on June 12, 2003 (68 FR 35185), provided a limited time during which Atlantic Tunas General category permit holders could make a one-time change to the new Atlantic HMS

Angling category permit. That temporary rule is effective through July 9, 2003.

Since issuance of the June 12, 2003, temporary rule, NMFS has received numerous comments on a daily basis that other permits have been issued in incorrect categories due to confusion about the new HMS Angling category, human error in selecting the permit due to unfamiliarity with the automated permitting system, and possible administrative error. Persons issued permits in the Atlantic Tunas General and Harpoon and Atlantic HMS Angling and Charter/Headboat categories have also contacted NMFS to seek relief for permits issued in incorrect categories. Due to the unique circumstances of the new HMS Angling permit requirements, and the numerous errors in permit category issuance, this temporary rule provides a 10–day period for all Atlantic Tunas General, Harpoon, and Trap categories and Atlantic HMS Angling and Charter/Headboat category permit holders to correct permit category errors. Atlantic Tunas Longline and Purse Seine category permits are limited access permits and are not eligible for changes under this temporary rule.

For persons issued 2003 Atlantic Tunas and Atlantic HMS category permits after the effective date of this temporary rule, corrections to a permit category must be made within 10 days of the date of issuance of the permit (e.g., if a permit is issued on July 1, then corrections to the permit category must be made by July 10). For persons issued 2003 Atlantic Tunas and Atlantic HMS category permits prior to or on the effective date of this temporary rule (excluding Atlantic Tunas Longline and Purse Seine category permits), corrections to permit category errors must be made by July 3, 2003. It is incumbent upon permit holders to carefully review their existing permit category information, as, no further corrections to a permit category may be made after the above-mentioned 10–day periods.

Pending receipt of a new permit, permit holders are subject to the regulations applicable to their currently held permits.

Permit Category Changes

NMFS maintains an automated permitting system for the issuance of Atlantic Tunas vessel permits and HMS Angling vessel permits. To make a permit category correction under this temporary rule, dial (888) 872–8862 and press ''0'' from the main menu to reach a Customer Service representative.

Classification

This temporary rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA (AA), finds for good cause that providing prior notice and public comment for this temporary rule, as required under 5 U.S.C. 553(b)(B), is impracticable and contrary to the public interest. The Atlantic HMS Fishery opened on June 1, 2003. Over the past 2 weeks, fishermen have been notifying NMFS that, as a result of confusion regarding the new HMS recreational Angling permit requirement and errors in selecting and/or issuing their permits, they had obtained Atlantic Tunas and Atlantic HMS permits in incorrect categories. Current regulations do not provide a mechanism for correcting permit category errors. Delay in issuing this temporary rule would prevent fishermen who intended to fish under the new Angling category or under different categories from being allowed to engage in their intended fishing activities for the next several months.

Because this temporary rule relieves a restriction by allowing an otherwise prohibited permit correction, it is not subject to a 30–day delay in effective date pursuant to 5 U.S.C. 553(d)(1).

NMFS will rapidly communicate this action to fishery participants through its FAX network and HMS Information Line.

Because prior notice and opportunity for public comment are not required for this temporary rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This action is not significant within the meaning of Executive Order 12866.

Dated: June 23, 2003.

Rebecca J. Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 03–16260 Filed 6–23–03; 4:30 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030409081–3154–02; I.D. 032103B]

RIN 0648–AQ72

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final emergency rule implements emergency measures intended to reduce overfishing on species managed under the NE Multispecies Fishery Management Plan (FMP), under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action continues most interim measures specified in the Settlement Agreement Among Certain Parties (Settlement Agreement), ordered to be implemented by the U.S. District Court for the District of Columbia (Court). The interim measures were implemented through an interim final rule published on August 1, 2002. The final emergency rule contains measures such as: A freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996–2000 and a 20–percent cut from that level; a freeze on the issuance of new open access Hand-gear permits; gear restrictions; modifications and additions to closure areas; and restrictions on yellowtail flounder catch. In addition, in response to public comment, this final emergency rule implements measures pertaining to haddock, including reducing the haddock minimum size limit for private recreational and party/charter vessels to 21 inches (52.5 cm), and relaxing the haddock trip limit (also known as bag limit) for charter/party and open access Handgear permit vessels. NMFS and two of the plaintiffs filed a motion with the Court requesting an extension of the August 22, 2003, implementation of Amendment 13 to the NE Fishery Management Plan (FMP) schedule in the Order until May 1, 2004. On December 4, 2002, the Court granted an extension of the Court-ordered timeline for implementation of Amendment 13 to

the FMP until May 1, 2004. Amendment 13 will put in place long-term measures to end overfishing and rebuild multispecies stocks. This emergency rule is necessary to ensure that there exist measures to reduce overfishing until implementation of Amendment 13.

DATES: Effective July 28, 2003.

ADDRESSES: Written comments regarding the approved collection-of-information requirements should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer). Copies of this final emergency rule, including the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) are available upon request from the Regional Administrator. The EA/RIR/FRFA is also accessible via the Internet at *http://www.nero.nmfs.gov*.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone: 978–281–9347, fax: 978–281–9135; email: *thomas.warren@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

A proposed emergency rule for this action, requesting public comment, was published on April 24, 2003 (68 FR 20096), and subsequently corrected on May 9, 2003 (68 FR 24914), that would continue measures implemented on August 1, 2002, consistent with the Settlement Agreement, which was ordered to be implemented by the Court in a Remedial Order (Order) issued on May 23, 2002, as a result of *Conservation Law Foundation, et al.* v. *Evans, et al.* In addition to containing the interim measures implemented on August 1, 2002, consistent with the Settlement Agreement, which are being implemented through this final emergency rule, the proposed emergency rule contained a program that would allow limited access NE multispecies vessels to lease DAS. Due to the newness and potential controversiality of the DAS Leasing Program and its implications, NMFS extended the comment period through June 10, 2003, on the DAS leasing aspect of the proposed emergency rule only (68 FR 28188; May 23, 2003). This final emergency rule implements many of the same measures implemented through the August 1, 2002, interim final rule with some modifications in response to public comment, and does not implement the DAS Leasing Program. If the DAS Leasing Program is approved, a separate final rule will be published to implement that program.

Pursuant to the Court's Order, NMFS published an interim final rule (67 FR 50292) on August 1, 2002, which implemented management measures consistent with the Settlement Agreement that intended to reduce overfishing on species managed under the FMP. Measures implemented on August 1, 2002, included: A freeze on DAS based on the highest annual level used from fishing years 1996–2000, reduced by 20 percent; a freeze on the issuance of new open access Hand-gear permits; increased gear restrictions for certain gear types, including gillnets, hook-gear and trawl nets; modifications and additions to the closure areas; limits on yellowtail flounder catch; a reduction in the haddock trip limit for open access Handgear vessels; a haddock trip limit for charter/party vessels fishing in the Gulf of Maine (GOM); and an increase in minimum haddock size for private recreational and party/charter vessels.

The Order specified that the management measures implemented by the August 1, 2002, interim rule must remain in effect until implementation of Amendment 13 to the FMP. Amendment 13 was initially scheduled to be in effect no later than August 22, 2003. However, due to the need for additional time to address unanticipated concerns related to NMFS' Northeast Fisheries Science Center's trawl survey and the new biological reference points developed for the NE multispecies stocks, NMFS and two of the plaintiffs filed a motion with the Court requesting an extension of the August 22, 2003, implementation schedule until May 1, 2004. On December 4, 2002, the Court granted an extension of the Court-ordered timeline for Amendment 13 implementation until May 1, 2004.

On January 22, 2003, NMFS published a notice in the **Federal Register** informing the public that NMFS was continuing the interim regulations for a second 180–day period (ending July 27, 2003). Under section 305(c)(3)(B) of the Magnuson-Stevens Act, interim regulations implemented under section 305(c) are limited to two, consecutive 180–day periods. The Court subsequently granted an extension of the original schedule for implementation of Amendment 13 to May 1, 2004. Thus, in order to comply with the Court Order to maintain the short-term measures until implementation of Amendment 13, the Secretary is implementing this final emergency rule under 305(c) of the Magnuson-Stevens Act.

This final emergency rule implements many of the same measures contained in the interim final rule published on August 1, 2002, as described below, with slight modifications to measures pertaining to haddock size and possession limits for recreational, party/charter, and open access Handgear vessels. As acknowledged in the Settlement Agreement, the Secretary maintains the discretion to modify measures contained therein. NMFS determined that slight modifications to certain haddock specific measures are justified due to the unique circumstances of the haddock fishery, including, the fact that overfishing is not occurring in the haddock fishery, the disproportionate haddock restrictions among different sectors of the fishery, and the potential for lowering discarded bycatch of haddock. Fishing mortality on haddock in the 2002 fishing year continued at a level well below the level necessary to ensure rebuilding of the stock within the timeframes specified in the Magnuson-Stevens Act. In response to this low level of fishing mortality, NMFS has relieved certain haddock trip limits during the 2002 fishing year (67 FR 45401; July 9, 2002), on commercial limited access multispecies vessels as allowed for in the multispecies regulations. Public comments for this proposed action pointed out that other fishing sectors fishing for haddock did not receive the same consideration with respect to haddock restrictions. This emergency rule significantly reduces these disproportionate haddock restrictions without jeopardizing the objective of preventing overfishing on haddock. Even though NMFS received public comments requesting modifications to other measures, NMFS determined that the changes to the haddock measures were the only appropriate ones because they apply to haddock only and the analysis in the EA demonstrates that these measures will not have a detrimental effect on haddock or any other multispecies stock. Moreover, these changes were designed to limit the changes to a return to haddock restrictions in effect before implementation of the August 1, 2002, interim regulations. These unique circumstances do not exist for implementing any other suggested modifications affecting other stocks of multispecies. The measures being implemented by this final emergency rule are described below.

Regulated Mesh Areas (RMAs)

This action continues the RMAs established by the August 1, 2002, interim rule for the Gulf of Maine

(GOM), Georges Bank (GB), Southern New England (SNE) and Mid-Atlantic (MA) RMAs. The GOM RMA is the area north of the GOM cod exemption line, which is currently used to define the areas where the GOM cod and GB cod trip limits apply, and the GB RMA lies south of the GOM cod exemption line, and continues south to the U.S. Exclusive Economic Zone (EEZ) for the areas east of 69 00' W. long. The SNE RMA is defined as the area west of the GB RMA and east of a line beginning at the intersection of 74 00' W. long. and the south-facing shoreline of Long Island, NY, and running southward along the 74 00' W. long. line. The MA RMA is defined as the area west of the SNE RMA. Specific management measures apply, depending on the area fished. For the purposes of the exempted fishery programs already implemented under the FMP, the GOM/GB and SNE RMAs, as defined under Amendment 7 to the FMP, remain in effect and are referred to as ''Exemption Areas.''

DAS Freeze

This action continues the DAS baseline that was established for each vessel by the August 1, 2002, interim rule, based on the permit history of that vessel. This baseline is as follows: The used DAS baseline for a limited access permit is calculated based on the highest number of DAS that a vessel(s) fished during any single fishing year among the 1996 through 2000 fishing years, which includes the period May 1, 1996, through April 30, 2001, not to exceed the vessel's current DAS allocation in any given year. For any vessel where the calculation of the baseline DAS results in a net amount of DAS less than 10, that vessel is allocated a used DAS baseline of 10 DAS. Because vessel owners were already provided an opportunity to correct any errors regarding their current DAS baselines (under the August 1, 2002, interim rule), and the DAS baseline will incorporate any corrections made, no additional opportunity to correct used DAS baseline allocations is provided under this action.

DAS Effort Reduction

These emergency measures will result in DAS allocations for the 2003 fishing year consistent with the 20–percent DAS reductions that were implemented by the August 1, 2002, interim rule (i.e., the current DAS allocations). That is, for the 2003 fishing year, each vessel's DAS allocation is equal to that vessel's used DAS baseline, minus 20 percent of that vessel's used DAS baseline. Effective July 28, 2003, each vessel's DAS remaining for the 2003 fishing year is equal to that vessel's used DAS baseline, minus 20 percent of that vessel's used DAS baseline, minus any DAS that the vessel fished during the period May 1 through July 27, 2003.

Freeze on Issuance of New Hand-gear Permits

Under this action, vessels that have never been issued an open access NE multispecies Hand-gear permit are prohibited from obtaining a Hand-gear permit for the duration of this action.

Prohibition on Front-loading the DAS Clock

The term ''frontloading the DAS clock'' refers to the practice of vessel owners starting their DAS clock in advance of the actual departure of the vessel. This final emergency rule continues the prohibition on frontloading. Under this prohibition, a vessel owner or authorized representative is required to notify NMFS no earlier than 1 hour prior to the vessel leaving port to fish under the NE multispecies DAS program. A DAS will begin once the call has been received and a confirmation number is given. This measure applies to all management areas.

Closed Area Additions/Modifications

This final emergency rule continues the closure areas established under the August 1, 2002, interim rule for the Western Gulf of Maine (WGOM) Area Closure, the Rolling Closure Areas, the Cashes Ledge Closure Area, and the GB Seasonal Closure Area. Exemptions to the GOM rolling closure areas, WGOM, Cashes Ledge Closure Area, and GB Seasonal Closure Area remain the same as established under the August 1, 2002, interim rule (and corrected in 68 FR 14347, March 25, 2003). Charts of the closure areas are available from the Regional Administrator upon request (see **ADDRESSES**).

Gear Restrictions

Trawl Vessels, When Fishing in the GOM, GB, or MA RMAs

Under this final emergency rule, vessels fishing with otter trawl gear, and fishing any part of a NE multispecies DAS trip in the GOM, GB, or MA RMAs, are required to fish with a minimum 6.5–inch (16.5–cm) diamond or square mesh codend. This requirement applies only to the codend of the net; the minimum mesh-size for the remaining portion of the net is 6.0–inch (15.24–cm) diamond mesh or 6.5–inch (16.5–cm) square mesh, or any combination thereof. The codend is defined as follows: 25 meshes for diamond mesh, or 50 bars in the case of square mesh, from the terminus of the net for vessels 45 ft (13.7 m) in length and less; and 50 meshes for diamond mesh, or 100 bars in the case of square mesh, from the terminus of the net for vessels greater than 45 ft (13.7 m) in length.

Gillnet Vessels, When Fishing in the GOM RMA

Under this action, limited access NE multispecies vessels that obtain an annual designation as a Trip gillnet vessel, when fishing in the GOM RMA during any part of a trip under a multispecies DAS, are required to fish with nets with a minimum of 6.5–inch (16.5–cm) mesh and are restricted to 150 nets, with one tag fixed to each net. Multispecies vessels that obtain an annual designation as a Day gillnet vessel are allowed to fish up to 100 nets, provided that, when fishing any part of a trip under a NE multispecies DAS in the GOM RMA, the vessel complies with the following specifications: When fishing with flatfish nets, vessels can fish no more than 100 nets, with a minimum mesh size of 7 inches (17.8 cm), with one tag affixed to each net; vessels may only fish roundfish nets from July through February, and are allowed to fish no more than 50 nets, with a minimum mesh size of 6.5 inches (16.5 cm), with two tags affixed to each net. Any tag not affixed to a net must be retained on the vessel and be immediately available for inspection.

Gillnet Vessels, When Fishing in the GB RMA

Under this final emergency rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the GB RMA at any time throughout the fishing year are required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the GB RMA during any part of a trip under a NE multispecies DAS are required to fish with nets with a minimum of 6.5–inch (16.5–cm) mesh and are restricted from fishing more than 50 nets, with two tags fixed to each net.

Trawl Vessels, When Fishing in the SNE RMA

Under this final emergency rule, when fishing any part of a NE multispecies DAS in the SNE RMA, otter trawl vessels are required to fish with a minimum 7.0–inch (17.8–cm) diamond or 6.5–inch (16.5–cm) square mesh codend. This requirement applies only to the codend of the net, which is

defined as described above under the GOM and GB trawl mesh restrictions.

Gillnet Vessels, When Fishing in the SNE RMA

Under this final emergency rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the SNE RMA at any time throughout the fishing year are required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the SNE RMA during any part of a trip under a NE multispecies DAS are required to fish with nets with a minimum of 6.5–inch (16.5–cm) mesh, and are restricted from fishing more than 75 nets, with two tags fixed to each net.

Gillnet Vessels, When Fishing in the MA RMA

Under this final emergency rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the MA RMA are allowed to fish the same type and number of nets as allowed prior to the implementation of the August 1, 2002, interim rule. That is, vessels are allowed to fish up to 160 nets. Vessels fishing under the monkfish DAS program are limited to 150 nets.

Gillnet Vessels, When Fishing Under a Monkfish DAS

Under this final emergency rule, any monkfish vessel that has a monkfish limited access Category C or D permit (i.e., a vessel that possesses both a monkfish and NE multispecies limited access permit) and that is fishing under a monkfish DAS, in all areas, is restricted from fishing more than 150 nets, provided the vessel fishes with nets with a minimum mesh size of 10 inches (25.4 cm). Vessels are required to affix one tag to each net. Category A and B monkfish vessels remain unaffected by these measures.

Large-Mesh Vessel Permit Categories

Under this final emergency rule, vessels that have a valid limited access NE multispecies Large Mesh Individual DAS category or a Large Mesh Fleet DAS category permit, when fishing in the GOM, GB, and SNE RMAs, with trawl nets or sink gillnets, are required to fish with nets with a minimum mesh size of 8.5–inch (21.6–cm) diamond or square mesh throughout the entire net. Vessels fishing with trawl nets or sink gillnets when fishing in the MA RMA are required to fish with nets with a minimum mesh size of 7.5–inch (19.0–cm) diamond or 8.0–inch (20.3–cm) square mesh throughout the entire net.

Hook-gear Vessels

Under this final emergency rule, vessels that have a valid NE multispecies limited access permit are prohibited from using de-hookers (crucifiers) with less than 6–inch (15.2–cm) spacing between the fairlead rollers. In addition, limited access Small-vessel permitted vessels and limited access permitted vessels that fish any part of a NE multispecies DAS trip in the GOM, GB or SNE RMAs are required to use 12/0 or larger circle hooks on longline gear, and are subject to a maximum number of rigged hooks on board the vessel. Specifically, vessels fishing in the GOM or SNE RMAs are prohibited from possessing more than 2,000 rigged hooks, and vessels fishing in the GB RMA are prohibited from possessing more than 3,600 rigged hooks.

Table 1 summarizes the gear restriction measures for each gear sector when fishing in the various RMAs.

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Table 1. Gear Restrictions by Regulated Mesh Areas.

	GOM	GB	SNE	Mid-Atl
MINIMUM MESH SIZE RESTRICTIONS FOR GILLNET GEAR				
NE Multispecies Day Gillnet Category*	July-February only: Roundfish nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	Roundfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 80-net allowance; 2 tags/net
	Year-round: Flatfish nets 7.0" (17.8 cm) mesh; 100-net allowance; 1 tag/net			Flatfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 160-net allowance 1 tag/net;
NE Multispecies Trip Gillnet Category*	All nets 6.5" (16.5 cm) mesh; 150-net allowance; 1 tag/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	All gillnet gear 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; No net limit; no tag requirement
Monkfish Vessels**	10" (25.4 cm) mesh/150-net allowance			
	1 tag/net			
MINIMUM MESH SIZE RESTRICTIONS FOR TRAWL GEAR				
Codend only mesh size*	6.5" (16.5 cm) diamond or square		7.0" (17.8 cm) diamond or 6.5" (16.5 cm) square	6.5" (16.5 cm) diamond or square
Large Mesh Category - entire net	8.5" (21.59 cm) diamond or square			7.5" (19.0 cm) diamond or 8.0" (20.3 cm) square
MAXIMUM NUMBER OF HOOKS AND SIZE RESTRICTIONS FOR HOOK-GEAR* **				
Limited access multispecies vessels	2,000 hooks	3,600 hooks	2,000 hooks	4,500 hooks (Hook-gear vessels only)
	No less than 6" (15.2 cm) spacing allowed between the fairlead rollers			
	12/0 circle hooks required for longline gear			N/A

* When fishing under a NE multispecies DAS

** Monkfish Category C and D vessels, when fishing under a monkfish DAS

*** When fishing under a NE multispecies DAS or when fishing under the Small-vessel permit

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Cod Minimum Fish Size (Commercial Vessels)

Under this final emergency rule, the minimum size for cod that may be lawfully sold is 22 inches (55.9–cm) total length.

NE Multispecies Possession Restrictions

Yellowtail Flounder

This final emergency rule requires enrollment in one of two authorization programs for any possession of yellowtail flounder, and continues restrictions on the harvest of yellowtail flounder when fishing in the SNE and MA RMAs and in the GB RMA south of 40 00' N. lat. From March 1 through April 30, 2004, all vessels are subject to a possession and landing limit of 250 lb (113.4 kg) of yellowtail flounder per trip when fishing any part of a trip in the SNE and MA RMAs north of 40°00′ N. lat. In addition, from June 1 through February 28, all vessels are subject to a possession and landing limit of 750 lb (340.3 kg) of yellowtail flounder per day, and a maximum trip limit of 3,000 lb (1,361.2 kg) per trip when fishing any part of the trip in the SNE and MA RMAs north of 40°00′ N. lat. A vessel fishing for yellowtail flounder in the SNE and MA RMAs north of 40°00′ N. lat. may possess and land up to the seasonal yellowtail flounder allowable limits, provided the vessel does not fish south of 40 00' N. lat. and has on board a SNE/MA yellowtail flounder possession/landing authorization issued by the Administrator, Northeast Region, NMFS (Regional Administrator). Under this final emergency rule, all vessels are prohibited from possessing yellowtail flounder in the MA, SNE or GB RMAs unless fishing north of 40°00′ N. lat., or unless the vessel is transiting areas south of 40°00′ N. lat. and all fishing gear on board the vessel is properly stowed according to the regulations. Vessels fishing east or north of this area are not subject to the yellowtail flounder possession limit restrictions, provided that the vessel does not fish west of the GB RMA and possesses on board a GOM/GB yellowtail flounder possession/landing authorization issued by the Regional Administrator. Vessels exempt from the yellowtail flounder possession limit requirements may transit areas outside of the specific exempted area that they are fishing, provided that their gear is stowed in accordance with one of the provisions of § 648.23(b).

Hand-gear Permitted Vessels

Under this final emergency rule, the maximum haddock possession limit for vessels that have been issued a valid open access Hand-gear permit has been modified from the interim measures to allow up to the trip limit in effect prior to the implementation of the Settlement Agreement, 300 lb (136.1 kg) of haddock per trip. However, the maximum possession limit for cod or yellowtail flounder, combined, remains at 200 lb (90.7 kg) per trip. In other words, such vessels may land a maximum of 300 lb (136.1 kg) combined cod, haddock, or yellowtail flounder, provided that no more than 200 lb (90.7 kg) of which are cod or yellowtail flounder. Such vessels are not required to obtain a yellowtail flounder possession/landing authorization in order to harvest yellowtail flounder, but are not allowed to harvest yellowtail flounder south of 40° 00' N. lat. The haddock limit is changed in order to enhance the equitable distribution of fish harvest among sectors of the NE multispecies fishery, decrease discarding, and mitigate economic impacts resulting from the measures implemented as a result of the Settlement Agreement.

GB Cod Trip Limit

This final emergency rule continues the current method of how the DAS clock accrues for those vessels fishing in the GB RMA and harvesting GB cod, which is consistent with how the DAS clock accrues when fishing in the GOM RMA and harvesting GOM cod. That is, a vessel subject to this landing limit restriction can come into port with, and offload cod in excess of the landing limit, as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that the vessel operator does not call out of the DAS program and does not depart from a dock or mooring in port until the rest of the additional 24–hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded.

GOM Cod

This action maintains the daily possession limit for GOM cod at 500 lb (227.3 kg) per DAS, with a maximum possession limit of 4,000 lb (1,818.2 kg) per trip.

Recreational and Charter/Party Vessel Restrictions

Under this final emergency rule, the minimum fish size for haddock that can be retained by a federally permitted charter/party vessel not on a NE multispecies DAS, or a private recreational vessel not holding a Federal permit and fishing in the EEZ, is reduced from 23 inches (58.4–cm) to 21 inches (52.5–cm) total length, which was the minimum size limit in effect prior to the implementation of the Settlement Agreement. This final emergency rule also removes the haddock bag limit for the charter/party sector when fishing in the GOM RMA and not under a NE multispecies DAS. This final emergency rule continues the current cod bag (possession) limit for the charter/party sector when a vessel is fishing in the GOM RMA and not under a DAS. Each person on a charter/party vessel not fishing under a DAS in the GOM RMA is allowed to possess no more than 10 cod per trip during the period April through November, and no more than 5 cod per trip during the period December through March. This final emergency rule continues the minimum fish size of 23 inches (58.4–cm) total length for cod that can be retained by a federally permitted charter/party vessel not on a NE multispecies DAS, or a private recreational vessel not holding a Federal permit and fishing in the EEZ. This action continues the cod and haddock possession limit of no more than 10 cod or haddock, combined, for private recreational vessels, and continues the further restriction of the cod possession limit for private recreational vessels when fishing in the GOM RMA, by requiring that during the period December through March, each person on a recreational vessel may possess no more than five cod. Cod and haddock harvested by recreational vessels with more than one person aboard can be pooled in one or more containers. Compliance with the possession limit is determined by dividing the number of fish on board by the number of persons on board. The haddock minimum size and bag limit are changed in order to enhance the equitable distribution of fish harvest among sectors of the NE multispecies fishery, decrease discarding, and mitigate potential economic impacts resulting from the measures implemented as a result of the Settlement Agreement.

For a vessel that intends to charter/party fish in the GOM closed areas, this final emergency rule requires that the vessel possess on board a letter of authorization (LOA) issued by the Regional Administrator. The LOA is required for the entire fishing year if the vessel intends to fish in the year-round GOM closure areas, and for a minimum of 3 months if the vessel intends to fish in the seasonal GOM closure areas. Vessels can obtain an LOA by calling the NMFS Permit Office at 978–281–9370.

All other existing recreational measures remain in effect, including the no-sale provision for all fish caught for both the party/charter and private recreational sectors when not fishing

under a NE multispecies DAS. Table 2 summarizes the party/charter and private recreational sector measures.

TABLE 2. CHARTER/PARTY AND PRIVATE RECREATIONAL FISHING MEASURES.

	Minimum Fish Size[1]	Bag Limit (combined)	GOM Closure Exemption Authorization
Charter/party not on a NE multispecies DAS	haddock 21 (52.5 cm) ... cod 23 ..... (57.5 cm) ...	*April-November:* 10 cod[2] *December-March* 5 cod[2]	A minimum of 3 months, or duration of closure
Private Recreational	haddock 21 (52.5 cm) ... cod 23 ..... 57.5 cm)	*Areas outside of GOM RMA*: 10 cod/haddock *GOM RMA:* 10 cod/haddock, no more than 5 which can be cod, Dec.-Mar.	N/A N/A

[1] All other minimum fish sizes remain unchanged.
[2] When fishing in the GOM RMA.

Observer Coverage

NMFS was ordered by the Court to expand its observer coverage for all gear sectors in the NE multispecies fishery by providing 5–percent coverage, or higher, if statistically necessary to monitor and collect information on bycatch, as well as other biological and fishery-related information. Additionally, NMFS was ordered, by May 1, 2003, to expand further its observer coverage to 10 percent for all gear sectors, or that level necessary to provide statistically reliable data. NMFS has determined, based upon internal agency decision-making, that 5–percent observer coverage would provide sufficiently robust statistical data to assess the amount and type of bycatch in the NE multispecies fishery. This conclusion is based upon an analysis of the relative precision of discard estimates of 17 groundfish stocks, using observer coverage and landings data for the year 2000 (Northeast Fisheries Science Center, 2003), and NMFS has therefore implemented this level of observer coverage in the NE multispecies fishery.

Other Modifications to Regulations

For the 2002 fishing year, vessels electing a Day or Trip gillnet designation were allowed to change their designation prior to September 1, 2002, because the interim final rule was implemented during the middle of the fishing season. This exemption was only necessary for the 2002 fishing year and, therefore, is not included in this final emergency rule. In the August 1, 2002 interim rule, the Cashes Ledge Area Closure regulations inadvertently omitted a reference to transiting, under a listing of allowable exemptions to the closure. The relevant reference is added by this final emergency rule.

Comments and Responses

A total of 76 comments were received on the proposed emergency rule that pertain to the management measures specified by the Settlement Agreement. Because management measures contained in this final emergency rule are being implemented as a result of a negotiated Settlement Agreement and a Court Order, NMFS has limited discretion to alter the measures that were published in the August 1, 2002, interim rule.

Comment 1: Sixty-nine commenters from the charter/party and private recreational sectors commented on the haddock restrictions implemented under the August 1, 2002, interim final rule and that were proposed to continue under this final emergency rule. Specifically, the commenters noted the disparity between the substantially higher haddock trip limits associated with the NE multispecies DAS limited access vessels and the lower trip limits associated with the charter/party and private recreational vessels. Some commenters stated that the difference in trip limits between the two sectors was not justified in light of the relatively small amount of haddock landed by the private recreational and charter/party sectors in comparison to the commercial DAS sector. They believe that the disparity in trip limits is unfair, and cited National Standard 4, which requires that assignment of fishing privileges among fishermen be fair and equitable.

Thirty-seven commenters from the charter/party or private recreational sectors suggested that haddock should be removed from the combined cod/haddock trip limit, which would result in a bag limit of 10 cod. Three commenters believed that the limit should be 20 cod/haddock combined, and one commenter thought that the bag limit should be five for haddock. Two commenters stated that the haddock stock does not need the protection provided by the 10- haddock bag limit, and one commenter requested an explanation of why the recreational haddock catch should be restricted at all. One commenter stated that other factors such as the amount of free time available for fishing and weather, were more important determinants to overall levels of recreational catch than bag limits.

Response: The fact that a trip limit is different for various sectors of the groundfish fishery does not necessarily make those trip limits unfair. However, in this situation, the changes to the recreational sector regulations, when compared to the commercial sector regulations, created an unfair situation. Low numbers of haddock landings reported by private recreational and party/charter fishers, as indicated by the Marine Recreational Fisheries Statistics Survey and Vessel Trip Reports (VTR), supports the assertion that the total amount of haddock landed by the recreational and charter party sectors is small relative to the amount of haddock landed by the commercial sector.

Comparison of the most recent estimate of fishing mortality on the GOM stock of haddock with the recent estimate of the fishing mortality rate associated with maximum sustainable yield (Fmsy), indicates that fishing mortality could increase substantially over current levels. An increase in fishing mortality will not undermine the ability of the stock to rebuild within the timeframe required by the Magnuson-Stevens Act. In light of the current status of the haddock stocks, the current trip limit in effect for the NE multispecies limited access DAS vessels, the negative economic impacts that may have resulted from the 10 cod/haddock combined trip limit (see response to comment 2), and the

potential impact on discarding bycatch of haddock, a charter/party haddock bag limit is not necessary, and has therefore been removed under this final emergency rule. With respect to private recreational vessels, the haddock bag limit was unchanged by the Settlement Agreement and is, therefore, not changed by this final emergency rule. These changes make the haddock measures more consistent with National Standard 4.

Comment 2: Thirty-six commenters from the charter/party sector commented that the haddock size and trip limit restrictions that have been in effect since August 2002, and that were proposed to continue under this emergency action, have made customers reluctant to sign up for charter/party trips or caused trip cancellations. According to the commenters, this has resulted in about a 50–percent reduction in the number of trips and, thus, has created economic hardship for this sector of the fishing industry. One commenter predicted that relaxation of the haddock limits would have positive effects on businesses that rely on the recreational fishery (e.g., lodging, food, and tackle).

Sixty-five commenters from the charter/party and private recreational sectors commented on the haddock minimum size restriction, recommending that the minimum size be reduced to 19 or 21 inches (47.5 or 52.5 cm, respectively). The rationale provided was that few haddock reach 23 inches (57.5 cm), that the recreational size limit should be the same as the commercial size limit, and that culling of undersized fish (discarding) represents a waste of a valuable resource that results in increased fishing mortality on the stock. One commenter supported the current 23–inch (57.5–cm) minimum length for cod.

Response: NMFS agrees that fish size and trip limit restrictions on haddock, coupled with the size and trip limit restrictions on cod for the charter/party sector, may have been a factor in the decrease in the number of charter/party trips. Relaxation of the haddock restrictions may benefit the charter/party fishery and businesses that rely on the charter/party fishery, while not having a negative impact on the haddock resource, but restrictions on the GOM stock of cod are necessary in order to reduce overfishing. Prior to the Settlement Agreement, the minimum fish size limit for the private recreational and party/charter fisheries for both cod and haddock was 21 inches (52.5 cm). Reduction of the haddock minimum length restriction to 21 inches (52.5 cm) would decrease haddock bycatch mortality by enabling fishers to keep some fish that they would otherwise be required to discard. Given this, and the current relatively low level of fishing mortality on haddock, this final emergency rule reduces the haddock minimum size restrictions for both the private recreational and charter/party vessels to 21 inches (52.5 cm), the minimum fish size regulation that was in effect prior to the Settlement Agreement.

Comment 3: Eight commenters did not support the more restrictive cod limits in December through March because they believe business was hurt by the low limit, that five fish are not worth the risks associated with winter fishing, and that the restriction amounts to a GOM closure for party/charter and private recreational vessels.

Response: NMFS continues to believe that the GOM bag limit of five cod during December through March for the private recreational and charter/party sectors is justified due to the need for a substantial reduction in fishing mortality for the GOM stock of cod. Data suggest that the majority of charter/party catch of cod occurs from November through April. Maintaining the five-cod bag limit from December through March will, therefore, afford continued needed protection for this stock, which is overfished.

Comment 4: One commenter stated that the proposed rule would not impose a seasonal bag limit on recreational cod caught on GB, despite the fact that the GB stock of cod is at a low level. The commenter believed this was justification for removal of the seasonal recreational bag limit (five cod in December through March) on GOM cod.

Response: A GB charter/party bag restriction for cod was not an alternative contained in the proposed rule or analyzed in the EA for this emergency action. Therefore, there is not a sufficient justification in the record to support implementation of such measures.

Comment 5: The State of Massachusetts Division of Marine Fisheries and the Associated Fisheries of Maine indicated that the limitations on the number of gillnets allowed for vessels with a Trip gillnet designation disadvantages that sector of the fishery, and suggested that the 150–net restriction either be eliminated, or that the 150–net limit apply everywhere, and not only to the GOM RMA. The commenters noted that the number of nets that can be safely carried on board the vessel is limited by the size of the vessel, and that access to pollock and haddock is restricted. One commenter suggested that a limit of 75 nets be set for both Day and Trip gillnet vessels, that the flatfish net restriction in the GOM be removed, and that the day vessels have a 6.5–inch (16.3–cm) requirement year round.

Response: Several stocks of groundfish in the GOM and GB RMAs require significant mortality reductions, and the gillnet restrictions were part of the measures designed to reduce overfishing because such gear is extensively used in the areas where reductions are needed. NMFS agrees that a subset of the gillnet fishery will be affected by both types of gillnet restrictions (mesh size and maximum number of nets). Although the aggregate reduction in groundfish landings that may be attributed to the gear restrictions imposed on gillnet vessels is relatively small (e.g., 2.6 percent for GOM cod), such restrictions have the potential to achieve important reductions in fishing mortality on several stocks, particularly cod and yellowtail flounder, which are overfished. Although, the complexity of the management measures makes it difficult to compare precisely the impacts of all regulations across gear sectors, the EA concludes that the Preferred Alternative would not result in disproportionate impacts among gear groups. Therefore, this final emergency rule does not modify the gillnet restrictions that were part of the Settlement Agreement. Amendment 13 to the FMP will reassess the continuation of these measures.

Comment 6: One commenter stated that the haddock trip limit associated with the open access Handgear permit category is not fair, given the more liberal haddock trip limit rules that the NE multispecies DAS vessels have been fishing under, and therefore should be removed. The commenter recommended that the cod and yellowtail flounder trip limits be set at the levels existing prior to implementation of the Settlement Agreement.

Response: In light of the current fishing mortality rate on the haddock stocks, the limit in effect for the NE multispecies limited access vessels concurrent with the implementation of the Settlement Agreement, the negative economic impacts that may have resulted from the 200–lb (90.7–kg) haddock trip limit, and the potential to reduce discarding, this final emergency rule increases the trip limit for the open access Handgear permitted vessels to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, no more than 200 lb (90.7 kg) of which, may consist of cod and yellowtail, combined. Maintenance of the 200–lb (90.7–kg) maximum for cod and yellowtail

flounder, combined, is necessary to ensure continued protection of those stocks.

Comment 7: Two commenters did not support the method used to calculate the NE multispecies DAS baseline implemented under the August 1, 2002, interim final rule, which was proposed to continue under this rule. One commenter suggested that, instead of a 20–percent DAS reduction from the baseline level, all vessels should have their DAS reduced by an equal number of days. Although not related to method by which days-at-sea are calculated, one commenter suggested that NE multispecies limited access DAS permit holders be compensated for lost DAS.

Response: The DAS baseline was chosen as a compromise to lessen impact on vessels as much as possible during a short-term interim period while Amendment 13 is being developed. NMFS recognizes that for some vessel owners the criterion may result in more severe impacts than for others. For such a broadly based measure, some differences in individual impacts are unavoidable. The conservation benefits of having a reduced overall cap on the amount of effort available for this fishery, on balance, justifies the freeze for this interim period, despite the more severe impacts on a few vessel owners. To help mitigate these impacts, in August, 2002, the President and Congress signed an Act that allocated funds to provide 12 million dollars in economic assistance to fishing communities of New England affected by federal restrictions. Amendment 13 is considering various alternative methods that define DAS baselines.

Comment 8: One commenter requested that the western border of the SNE RMA, which was redesignated by the Settlement Agreement, be returned to its original location. The commenter stated that it was not represented during the Settlement Agreement negotiations, and that the redesignation has been detrimental to some members of the industry, especially during January to June.

Response: NMFS acknowledges that re-designation of the western border of the SNE RMA from 72 30' W. long. to 74 00' W. long. altered the area of the SNE RMA and may have particularly impacted vessels fishing under a NE multispecies DAS in this re-designated area. Although the particular challenges facing fishers in this area may be unique, the implementation of the measures consistent with the Settlement Agreement made the minimum mesh requirements more restrictive in all the RMAs. Thus, NMFS believes the continuance of the mesh size restrictions is justifiable, based on the overfished status of many stocks managed under the NE Multispecies FMP, and the positive impacts that may result from an increase in mesh size (e.g., improved spawning success and recruitment).

Comment 9: One commenter suggested that the Settlement Agreement management measures should be discontinued, due to the lack of a public process during the development of the measures.

Response: When implementing the August 1, 2002, interim action, NMFS was responding to a Court decision, in which the Court adopted the Settlement Agreement. In order to involve the public and solicit comment on the proposed rule, NMFS provided a 30–day comment period for the August 1, 2002, interim final rule and the proposed emergency rule published on April 24, 2003. In addition, the public had an opportunity to comment on the proposed emergency rule measures at the May 20, 2003, New England Fisheries Management Council meeting. Although the public was not involved in the development of the Settlement Agreement, NMFS has, to the extent possible, taken into consideration public comments and made alterations to the proposed measures.

Comment 10: Two conservation organizations, The Ocean Conservancy and Oceana, supported extension of the Settlement Agreement management measures, but were concerned that NMFS concluded that a 5 percent level of observer coverage is sufficient.

Response: NMFS agrees that it is appropriate and necessary to continue the majority of the Settlement Agreement measures until such time that Amendment 13 is implemented. The level of observer coverage is a result of NMFS' internal deliberations related to the adequacy of observer coverage and is neither specified in the regulations nor a part of this rulemaking. Pursuant to the Court Order NMFS was required to provide 10 percent observer coverage for all gear sectors, effective May 1, 2003, unless it was able to establish by the most reliable and current scientific information available that such increase was not necessary. NMFS' Northeast Fisheries Science Center conducted an analysis of the relative precision of discard estimates for the NE multispecies fishery and concluded that a 5 percent level of observer coverage on all trips fished under a NE multispecies DAS would provide sufficiently robust statistical data to assess and estimate the amount and type of bycatch in the NE multispecies fishery.

Comment 11: The State of Maine's Department of Marine Resources supported the continuance of the measures specified in the Settlement Agreement, urged that no changes to the regulations be made, and stated that Amendment 13 is the appropriate vehicle for resolution of outstanding issues.

Response: As discussed above, NMFS is continuing most of the measures contained in the Settlement Agreement. The measures in the emergency proposed rule that were changed in this final emergency rule were limited to management measures for the haddock fishery, which is not subject to overfishing and where there are inequities between fishery sectors.

Comment 12: One commenter suggested that the requirement for Day gillnet vessels to take 120 days out of the fishery be modified to allow blocks to be taken in 3 to 7–day increments, and one commenter suggested that the commercial haddock limit be removed and therefore, there is not a sufficient basis to make such a change to the measures.

Response: These suggested changes were not analyzed or contained in the emergency proposed rule for this short term interim set of measures, and therefore, there is no justification in the record that such a change to these measures should be made.

Changes to the Proposed Interim Rule

The following changes to the proposed emergency rule are based upon public comment, and NMFS' decision to extend the comment period on the DAS Leasing Program. The changes listed below are in the order that they appear in the regulations.

In § 648.2, proposed new definitions pertaining to the DAS Leasing Program are removed to reflect that the DAS Leasing Program is not being implemented by this final emergency rule.

In § 648.4, the proposed modification to the consolidation restriction is removed to reflect that the DAS Leasing Program is not being implemented by this final emergency rule.

In § 648.14, the proposed prohibitions pertaining to the DAS Leasing Program are removed to reflect that the DAS Leasing Program is not being implemented by this final emergency rule.

In § 648.82(a)(1), the proposed modification to the DAS carry-over restrictions are removed to reflect that the DAS Leasing Program is not being

implemented by this final emergency rule.

In § 648.82, the proposed removal of paragraph (l)(3) is rescinded.

In § 648.82, proposed paragraph (m) is removed to reflect that the DAS Leasing Program is not being implemented by this final emergency rule.

In § 648.88, paragraph (a)(1) is modified to reflect that the NE multispecies open access Handgear permit category possession limit has changed in response to public comment, as described in the response to comment 6.

In § 648.89, paragraphs (b)(1) and (c)(2)(i) and (ii), the recreational cod and haddock minimum sizes and the charter/party haddock bag limit, respectively, are modified in response to public comment, as described in the response to comments 1 and 2.

In § 648.92(b)(2), the proposed modifications to monkfish DAS restrictions are removed to reflect that the DAS Leasing Program is not being implemented by this final emergency rule.

Classification

This rule has been determined to be significant for purposes of Executive Order 12866.

Final Regulatory Flexibility Analysis

NMFS prepared a FRFA that analyzes the potential economic impacts of the final rule on small commercial fishing entities. The proposed emergency rule was published in the **Federal Register** on April 24, 2003. A copy of the Initial Regulatory Flexibility Analysis (IRFA) is available from the Regional Administrator (see **ADDRESSES**). Changes to the emergency proposed rule were made as a result of comments, as explained in the responses to comments 1, 2, and 3, and to reflect that the DAS Leasing Program was removed from this final emergency rule. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble, in the SUMMARY, and in the FRFA. Gross revenue, in the absence of reliable cost data, is considered to be a proxy for profitability. A summary of the analysis follows:

The FRFA considered three alternatives: The Preferred Alternative, the No Action Alternative, and a Hard TAC Alternative. Analysis of the Preferred Alternative examined the impacts on industry that would result from the continuation of the current management measures (Settlement Agreement), with modifications to the haddock measures. Analysis of the No Action Alternative examined the impacts on industry that would result from implementation of the management measures that were in place for the 2001 fishing year (prior to implementation of the Court Order) and allowing fishing inside the WGOM Area Closure. Analysis of the Hard TAC Alternative examined the impacts to the industry that would result from a hard TAC system that achieved similar fishing mortality reductions as the Preferred Alternative. The economic impacts of the first two alternatives were analyzed and described according to the type of management measure as follows: (a) Commercial measures that were modeled (DAS restrictions, area closures, and trip limits); (b) commercial measures that were not modeled (changes to the open access hand gear category, prohibition on frontloading, prohibition on de-hooker use, mesh size restrictions, and limitations on the number of gillnets and hooks); and (c) recreational measures (private recreational vessel and party/charter). The Hard TAC Alternative is a fundamentally different type of management scheme and the economic impacts were examined in a qualitative manner because this fishery has not operated under Hard TAC system and therefore, there is insufficient data to provide a quantitative assessment of the economic impacts.

A total of seventy-six comments were received on the proposed emergency rule. Of these comments, fifty-eight addressed the economic impacts of the proposed measures. The principal concerns were the private recreational and party/charter haddock and cod restrictions, the haddock restrictions for the open access Handgear permit category, the limitations on the number of gillnets allowed, the boundary of the SNE RMA, and the DAS baseline calculation.

Forty-three comments addressed the economic impacts of the proposed charter/party and private recreational haddock regulations, and one comment addressed the economic impacts of the recreational measures on businesses related to the recreational fishery. According to the commenters, the haddock size and trip limit restrictions that have been in effect since August 2002, and that will continue under this final emergency rule, have made charter/party customers reluctant to sign up for trips or have caused trip cancellations resulting in about a 50–percent reduction in the number of trips and concomitant reduction in gross receipts. This rule restores the minimum size limit for haddock to 21 inches (52.5–cm) for recreational and party/charter vessels and restores the no haddock trip limit measure for party/charter vessels. Relaxation of the haddock restrictions may provide additional revenue for the charter/party fishery and businesses that rely on the charter/party fishery by allowing increased catch and resulting in a greater number of trips. Response numbers one and two in the comments and responses section of this rule address these issues.

Five comments addressed the economic impacts of the proposed charter/party and private recreational cod regulations. Commenters believe that the five cod limit in combination with the haddock restrictions has discouraged customers from taking trips. Although the cod trip limit in the GOM may be a disincentive for fishers to book charter/party trips, relaxation of the cod limit is not justified due to the need to reduce fishing mortality on the GOM cod stock. The relaxation of the haddock limit by this rule may mitigate some of the economic impact of the continuation of the cod trip limit. Response number three in the comments and responses section of this rule addresses this concern.

Four comments were received relative to the impacts of the net limits for the Trip gillnet category. The commenters stated that the limitations on the number of gillnets allowed for vessels with a Trip gillnet designation disadvantages that sector of the fishery. This final emergency rule implements gear restrictions on all the limited access sectors. Although the EA estimates that the gear limitations will reduce gross revenues for 24 trip vessels, it concludes that the Preferred Alternative would not result in disproportionate impacts among gear groups. Consistent with the Settlement Agreement as order to be implemented by the Court, the continuation of the Trip gillnet restrictions is justified because of the potential for these restrictions to achieve important reductions in fishing mortality and is, therefore, unchanged by this rule. Response number five in the comments and responses section of this rule addresses this issue.

One commenter stated that the haddock trip limit associated with the open access Handgear permit category is unfair, and should be increased to 300 lb (136.1–kg). This rule restores the haddock trip limit for this sector resulting in increased gross revenues from an increase in the amount of haddock retained for sale. Response number six in the comments and response section addresses this comment.

One commenter requested that the western border of the SNE RMA, which was redesignated by the Settlement Agreement, be returned to its original location because of negative economic impacts. The designation of the SNE RMA, the associated mesh restrictions, and the potential for negative economic impacts on a portion of the industry is justifiable, based on the following: The positive biological impacts that may result from an increase in mesh size, the overfished status of many stocks, and the fact that all the RMAs will be subject to restrictive minimum mesh sizes. Response number nine in the comments and responses section addresses this comment.

Four comments did not support the method used to calculate the DAS baseline, based upon the resultant low numbers of DAS for some vessel owners and the negative economic impacts. The DAS baseline implemented by this rule results in a lower number of DAS available for use by the fishery and a decrease in gross revenues earned by individual vessels. The conservation benefits of having a reduced overall cap on the amount of effort available for this fishery are consistent with the Court Order, goals and objectives of the FMP and Magnuson-Stevens Act for overfished fisheries. To help mitigate negative economic impacts from DAS reductions, in August, 2002, the Congress passed and the President signed an Act that allocated funds to provide 12 million dollars in economic assistance to fishing communities of New England affected by federal restrictions. Response number seven in the comments and responses section addresses this issue.

All commercial vessels with a NE multispecies permit had gross receipts less than $3.5 million, the SBA size standard for defining a small versus large commercial fishing business (3,894 NE multispecies vessels) (EA for the Settlement Agreement, June 2002). Therefore, there will be no disproportionate economic impacts between small and large entities.

This action will impact all limited access NE multispecies permit holders (1,383), all open access Hand gear-only permit holders (2,973), and all party/charter operators (1,028 open access permit holders). Based upon the June 2002 EA, the number of participating vessels that may be affected by any one or more of the measures is about 37 percent of the total number of those eligible to participate in some component of the NE multispecies fishery.

The DAS allocations implemented under the August 2002 interim final rule continue under this emergency action. The reductions in 2002 DAS allocations impacted all limited access permit categories. There were 1,383 limited access permits with baseline DAS allocations for the 2002 fishing year. Of these permits, 343 received the minimum allocation of 8 DAS. A total of 71,180 DAS were allocated for the fishing year; a reduction of 45.7 percent compared to the final fishing year 2001 allocations.

The relative reduction in DAS allocations varied by permit category. The total reduction for Individual allocation vessels (Category A) was 21.7 percent, as compared with 49 percent for Category B and 65.9 percent for Category D. Reductions in total DAS allocations for FY 2002 were larger for small vessels (less than 50 ft (15.2 m)), than for medium or large vessels. New York and New Jersey were the two states with the largest reduction in fishing year 2002 DAS allocations. In contrast, under the No Action Alternative, the DAS allocations would be markedly larger, with the potential for DAS use to increase above that which was recorded for the 2001 fishing year.

Relative changes to gross revenue were calculated based upon an estimation that DAS use in fishing year 2003 would range from 25 to 35 percent less than the number of DAS used during the 2001 fishing year. The estimated revenue loss for the 84 most affected vessels would be 21.3 percent, or greater, for an assumed 25–percent reduction in DAS, and would be 25 percent for an assumed 35–percent reduction in DAS. For vessels in the 25th to 50th percentile, the estimated revenue loss range from 19.7 to 11.5 percent for a 35–percent reduction in DAS use. Revenue loss for the least affected vessels would be no more than 1.5 percent. Relative dependence upon groundfish revenue is an important factor among the various factors that may determine the severity of the impact of the DAS measures on a particular vessel. The greater a vessel's dependence upon groundfish for annual fishing income, the greater the revenue loss is likely to be. The No Action Alternative would have resulted in no negative impacts or slightly positive impacts, in comparison with the measures being implemented.

With respect to gross annual revenue earned during the 2001 fishing year (pre-Settlement Agreement), these measures may have the largest adverse economic impacts on vessels in Maine, New Hampshire, and Massachusetts, but among these states, the estimated impacts would be similar. The No Action Alternative would have had positive economic impacts on vessels that fish in the GOM and fish in the WGOM specifically. The least adverse economic impacts may be for those vessels from states bordering the GOM, and for small gillnet vessels or large hook vessels.

The required changes to mesh size were estimated to affect 424 trawl vessels fishing in the GOM or GB area, and 221 trawl vessels fishing in the SNE area. The average cost to replace a cod-end was estimated to be $1,250. The mesh changes were estimated to affect 18 Day boat gillnet vessels that used tie-down nets fished in the GOM. The average cost to these vessels to replace their nets was $7,794. The mesh changes were estimated to affect 31 Day boat gillnet vessels that used stand-up nets that fished in the GOM. The average cost to these vessels to replace their nets was $9,300. The mesh changes were estimated to affect 25 Trip gillnet vessels that fished in the GOM. The average cost to these vessels to replace their nets was $18,352. The mesh changes were estimated to affect 32 gillnet vessels that fished in either GB or SNE. The average cost to these vessels to replace their nets was $8,800.

The required changes to gear limits would affect 30 bottom longline vessels, 72 Day gillnet vessels, and 24 Trip gillnet vessels. The average revenue loss for these vessels was estimated to be $21,400.

Under these measures, individuals that provide passenger services to recreational anglers (charter/party vessels) will also be directly affected. Because the haddock bag limit for charter/party vessels, and the minimum haddock size for charter/party and private recreational vessels is relaxed by this rule, the negative economic impacts under these bag and minimum size restrictions are expected to be less than under the restrictions in effect since August 2002. Historic information suggests that the relationship between changes in bag and possession limits and passenger demand has been weak. Following implementation of a reduction in minimum fish size in 1997, the number of passengers on charter/party vessels increased. However, public comment received in response to the proposed rule supports the contention that low bag limits in conjunction with more restrictive minimum fish size limits may reduce passenger demand.

Relative to the final measures, the No Action Alternative would have mitigated most of the adverse economic impacts associated with this action. In general, gross fishing incomes would have increased, particularly for vessels

operating in the GOM, and would have had a particularly beneficial impact on small vessels and gillnet vessels, in general. However, the No Action Alternative also would have resulted in unacceptably high increases in fishing mortality rates that could compromise the rebuilding of several GOM stocks, GOM cod in particular. Therefore, it was determined that the No Action Alternative would not meet the regulatory objectives for this emergency action.

Relative to the final measures and the No Action Alternative, the Hard TAC Alternative would have had a more severe adverse economic impact because of the severe consequences of closing down fisheries when a TAC is reached. In any event, neither the No Action Alternative nor the Hard TAC Alternative were viable because they were not consistent with the Settlement Agreement ordered by the Court to be implemented.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and

shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. The guide will be sent to all holders of permits issued for the NE multispecies fishery. In addition, copies of this final emergency rule and guide (i.e., permit holder letter) are available from the Regional Administrator (see **ADDRESSES**) and are also available at the following web site: *http://www.nmfs.gov/ro/doc/nero.html*.

There are no new recordkeeping requirements associated with this action.

This final emergency rule also contains previously-approved collection-of-information requirements that have been approved under OMB control number 0648–0202. Public reporting requirements for these requirements are 15 minutes for a request for a change in permit category and 5 minutes for an annual declaration as either a Day or Trip gillnet vessel. The response time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Public comment is sought regarding: 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; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 24, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.4, paragraphs (a)(1)(i)(I)(*2*) and (c)(2)(iii) are revised to read as follows:

§ 648.4 Vessel permits.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(I) * * *

(*2*) The owner of a vessel issued a limited access multispecies permit may request a change in permit category, unless otherwise restricted by paragraph (a)(1)(i)(I)(*1*) of this section. The owner of a limited access multispecies vessel eligible to request a change in permit category must elect a category upon the vessel's permit application and will have one opportunity to request a change in permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit. If such a request is not received within 45 days, the vessel owner may not request a change in permit category and the vessel permit category will remain unchanged for the duration of the fishing year. A vessel may not fish in more than one multispecies permit category during a fishing year.

* * * * *

(c) * * *

(2) * * *

(iii) An application for a limited access NE multispecies permit must also contain the following information: For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels fishing under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(k). A vessel owner electing a Day or Trip gillnet designation must indicate the number of gillnet tags that he/she is requesting and must include a check for the cost of the tags. A permit holder letter will be sent to the owner of each eligible gillnet vessel informing him/her of the costs associated with this tagging requirement and directions for obtaining tags. Once a vessel owner has elected this designation, he/she may not change the designation or fish under the other gillnet category for the remainder of the fishing year. Incomplete applications, as described in paragraph (e) of this section, will be considered incomplete for the purpose of obtaining authorization to fish in the NE multispecies gillnet fishery and will be processed without a gillnet authorization.

* * * * *

■ 3. In § 648.81, paragraph (h)(1) is revised to read as follows:

§ 648.81 Multispecies closed areas.

* * * * *

(h) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in the area known as the Cashes Ledge Closure Area, as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (h)(2) of this section:

* * * * *

■ 4. In § 648.88, paragraph (a)(1) is revised to read as follows:

§ 648.88 Multispecies open access permit restrictions.

(a) * * *

(1) Unless otherwise restricted under § 648.86(h), the vessel may possess and land up to 300 lb (136.1 kg) of haddock, cod, and yellowtail flounder, combined; one Atlantic halibut per trip; and

unlimited amounts of the other NE multispecies provided the following: The vessel does not possess more than 200 lb (90.7 kg) of cod and yellowtail flounder, combined; the vessel does not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies; and provided it has at least one standard tote on board.

* * * * *

■ 5. In § 648.89, paragraphs (b)(1), (c)(2)(i) and (ii) are revised to read as follows:

§ 648.89 Recreational and charter/party restrictions.

* * * * *

(b) * * *

(1) *Minimum fish sizes.* Persons aboard charter or party vessels permitted under this part and not fishing under the NE multispecies DAS program, and private recreational fishing vessels in the EEZ, may not retain fish smaller than the minimum fish sizes, measured in total length (TL) as follows:

MINIMUM FISH SIZES (TL) FOR CHARTER, PARTY, AND PRIVATE RECREATIONAL VESSELS

Species	Size (inches)
Cod	23 (58.4 cm)
Haddock	21 (52.5 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
Atlantic halibut	36 (91.4 cm)
Americal plaice (dab)	14 (35.6 cm)
Winter flounder (blackback)	12 (30.5 cm)

MINIMUM FISH SIZES (TL) FOR CHARTER, PARTY, AND PRIVATE RECREATIONAL VESSELS—Continued

Species	Size (inches)
Redfish	9 (22.9 cm)

* * * * *

(c) * * *

(2) * * *

(i) During the period April 1 through November 30, each person on the vessel may possess no more than 10 cod.

(ii) During the period December 1 through March 31, each person on the vessel may possess no more than 5 cod.

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[FR Doc. 03–16404 Filed 6–25–03; 11:19 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 124
Friday, June 27, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 106 and 107

[Docket No. 1995N–0309]

RIN 0910–AA04

Current Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports for the Production of Infant Formula; Extension of Reopened Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of reopened comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to August 26, 2003, the comment period, reopened on April 28, 2003, for the proposed rule published in the **Federal Register** of July 9, 1996 (61 FR 36154). The proposed rule would establish requirements for current good manufacturing practice (CGMP) and audits, establish requirements for quality factors, and amend quality control procedures, notification, and records and reports requirements for infant formula. This action is being taken in response to a request for more time to submit comments to FDA.

DATES: Submit written or electronic comments on the proposed rule by August 26, 2003.

ADDRESSES: Submit written comments to the Division of Dockets Management (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: Shellee Anderson, Center for Food Safety and Applied Nutrition (HFS–800), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1491, or e-mail: *Shellee.Anderson@cfsan.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 9, 1996 (61 FR 36154), FDA proposed regulations to revise its infant formula regulations to establish requirements for quality factors and CGMP; to amend quality control procedure, notification, and records and report requirements for infant formulas; to require that infant formulas contain, and be tested for, required nutrients and for any nutrient added by the manufacturer throughout their shelf life, and that they be produced under strict microbiological controls; and to require that manufacturers implement the CGMP and quality control procedure requirements by establishing a production and in-process control system of their own design.

In the **Federal Register** of April 28, 2003 (68 FR 22341), FDA announced that the time period for public comment would be reopened to June 27, 2003. On May 6, 2003, FDA received a request to extend the reopened comment period to allow interested persons additional time to comment. The requester asserts that the time period of 60 days is insufficient to respond fully to FDA's specific requests for comments and to allow potential respondents to thoroughly evaluate and address the original proposal in light of new issues that have arisen since 1996.

FDA believes that an extension of the reopened comment period is appropriate, given the variety of issues raised by the proposed rule and the April 28, 2003, document. However, because the agency wants to move forward on finalizing the rule as quickly as possible, FDA is extending the comment period only for an additional 60 days, until August 26, 2003. This extension will provide the public with a total of 120 days to submit comments during the reopened comment period.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the proposal. 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 numbers found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16357 Filed 6–26–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–108676–03]

RIN 1545–BC00

Distributions of Interests in a Loss Corporation from Qualified Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: This document contains proposed regulations under section 382 of the Internal Revenue Code of 1986. The proposed regulations affect loss corporations and provide guidance on whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of the temporary regulations published in this issue of the **Federal Register** serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by September 25, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG–108676–03), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG–108676–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *http://www.irs.gov/regs*.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Martin Huck, (202) 622–7750; concerning submissions of comments and/or requests for a public hearing, Treena Garrett, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 382. The temporary regulations provide rules for determining whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations provide relief to qualifying loss corporations that might be affected by an unintended consequence of the operation of the statute. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Nevertheless, the IRS and Treasury request comments from small entities that believe they might be adversely affected by these regulations. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Martin Huck, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.382–10 is also issued under 26 U.S.C. 382(m). * * *

Par. 2. Section 1.382–1 is amended by revising the entry for § 1.382–10 to read as follows:

§ 1.382–10 Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).

Par. 3. Section 1.382–10 is added to read as follows:

§ 1.382–10 Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).

[The text of proposed § 1.382–10 is the same as the text of § 1.382–10T published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 03–16230 Filed 6–26–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 12]

RIN 1512–AC78

Proposed McMinnville Viticultural Area (2002R–217P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the ''McMinnville'' viticultural area in Yamhill County, Oregon, within the existing Willamette Valley viticultural area. The proposed viticultural area would include only the land at and between the elevations of 200 feet and 800 feet within the described boundaries. We propose to amend the regulations to include this area, and we invite comments on this proposal, especially from those whose brand names may be affected by this proposal.

DATE: We must receive written comments by August 26, 2003.

ADDRESSES: You may send comments to any of the following addresses—

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 12);
- 202–927–8525 (facsimile);
- *NPRM@ttb.gov* (e-mail); or
- *http://www.ttb.gov* (An online comment form is posted with this Notice on our Web site).

You may view copies of this notice and any comments received at *http://www.ttb.gov/alcohol/rules/index.htm* or by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226; phone 202–927–7890.

See the **Public Participation** section of this Notice for specific instructions and requirements, as well as information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Procedures Division, P.O. Box 18152, Roanoke, VA 24014; telephone 540–344–9333.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

What Is TTB's Authority To Establish a Viticultural Area?

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity, while prohibiting the use of deceptive information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions.

Regulations in 27 CFR Part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR Part 9, American Viticultural

Areas, contains the list of approved viticultural areas.

What Is the Definition of a Viticultural Area?

Title 27 CFR 4.25a(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundaries have been delineated in subpart C of part 9. The establishment of viticultural areas allows the identification of regions where a given quality, reputation, or other characteristics of the wine is essentially attributable to its geographic origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced there.

What Is Required To Establish a Viticultural Area?

Section 4.25(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition TTB to establish a grape growing region as a viticultural area. The petition must include:

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that the boundaries of the proposed viticultural area are as specified in the petition;
- Evidence relating to geographical features, including growing conditions, such as climate, soil, elevation, physical features, etc., that distinguish the proposed area from surrounding areas;
- A description of the specific boundaries of the proposed viticultural area, based on features reflected on maps approved by the United States Geological Survey (USGS); and
- A copy or copies of the appropriate USGS-approved map(s) with the boundaries prominently marked.

What Impact Will This Have on Current Labels?

If this proposed viticultural area is established, bottlers who use brand names like ''McMinnville'' may be affected. If you fall in this category, you must ensure that your existing products are eligible to use the name of the viticultural area as an appellation of origin. For a wine to be eligible, at least 85 percent of the grapes in the wine must have been grown within the viticultural area and meet the other requirements listed in 27 CFR 4.25a(e)(3).

If the wine is not eligible for the appellation, you must change the brand name and obtain approval of a new label. Different rules apply if the brand name in question is on a label approved prior to July 7, 1986. See 27 CFR 4.39(i) for details. Additionally, if you use the viticultural area name on a wine label in a context other than appellation of origin, the general prohibitions against misleading representation in part 4 of the regulations apply.

McMinnville Petition

Mr. Kevin Byrd, of Youngberg Hill Vineyards, McMinnville, Oregon, has petitioned TTB for the establishment of a viticultural area to be called ''McMinnville.'' The proposed viticultural area is located approximately 40 miles southwest of Portland, Oregon, just west of the city of McMinnville and north of the village of Sheridan in Yamhill County. The proposed area is also entirely within the existing Willamette Valley viticultural area described in 27 CFR 9.90. According to the petitioner, there are 14 wineries and 523 acres planted to vines within the proposed McMinnville viticultural area.

What Name Evidence Has Been Provided?

The proposed viticultural area is named for the city of McMinnville, the county seat of Yamhill County, which is located at the northeastern border of the proposed viticultural area. Mr. Byrd states that the proposed area is considered part of greater McMinnville and notes that most of the wineries within the proposed boundaries have McMinnville addresses. He provided historical information on the name ''McMinnville'' from ''Oregon Geographic Names'' by Lewis L. McArthur (Oregon Historical Society, 1982). Mr. McArthur stated:

> McMinnville was named by William T. Newby, who was born in McMinnville, Warren County, Tennessee, in 1820, and came to Oregon in 1843. He settled near the present site of McMinnville early in 1844, and in 1853 built a grist mill and founded the town. In 1854 he started a store. He was county assessor in 1848 and state senator in 1870. McMinville post office was established on May 29, 1855, with Elbrige G. Edson postmaster. The name was later changed to the present spelling.

According to the petitioner, McMinnville is known to consumers as a wine producing area. To demonstrate this, he submitted several quotes from Internet sites. The first quote is from the Web site of the Greater McMinnville Chamber of Commerce; the other two are from travel sites:

- ''Nestled in the heart of Oregon's beautiful wine country, McMinnville is Oregon at its best.'' (See *http://www.mcminnville.org/welcome.html*.)
- ''Before gaining its glamorous reputation as a wine-producing center, McMinnville was known as the home of Linfield College * * *.'' (See *http://www.ohwy.com/or/m/mcminnvi.htm*.)
- ''McMinnville is known for its picturesque vineyards that dot the foothills. Located in Yamhill County, the oldest county in Oregon, McMinnville is often compared to the wine regions of France and Germany.'' (See *http://www.el.com/to/mcminnville/*).

In addition, the petitioner notes that McMinnville is the home of the International Pinot Noir Celebration, held every July since 1987 at the Linfield College campus.

What Boundary Evidence Has Been Provided?

The boundaries for the proposed McMinnville viticultural area are based primarily on elevation. The proposed boundaries encompass Gopher Valley, Dupee Valley, Muddy Valley, and the surrounding hills, all geographically part of the eastern foothills of the Coast Range. However, within the boundaries described in the proposed regulation section of this notice, only land at and between 200 and 800 feet of elevation is included in the proposed viticultural area. According to the petitioner, those elevations are distinctive in their soils and climate when compared to other parts of the Willamette Valley. The petitioner states that below the 200 foot elevation line the Willamette silt-based soils create growing conditions substantially different from those in the proposed area. The greater depth, water holding capacity, and fertility of these lower elevation soils extends the vegetative period of the vine and delays ripening of vineyards planted at those elevations. The soils of the proposed area are described in greater detail in the following section.

In addition, the petitioner asserts that elevation greatly affects the microclimate of the proposed viticultural area. He notes that elevations below 200 feet are more prone to frost when compared to the higher elevations. On the other hand, elevations above 800 feet experience far fewer degree growing days than lower elevations, which prevents the reliable ripening of wine grapes.

The petitioner's proposal is unusual in that the proposed boundaries encompass land that will not be part of

the proposed viticultural area. Land below 200 feet and above 800 feet will be excluded due to soil and climate differences with land between those elevations. A precedent does exist for such a viticultural area. Within the boundaries of the Mendocino Ridge viticultural area, only land at and above the 1200 foot elevation line is included in the viticultural area (See 27 CFR 9.158 and T.D. ATF–392 at 62 FR 55512, October 27, 1997). However, because of the unusual nature of such boundaries, TTB is particularly interested in public comments on the proposed McMinnville boundaries. Specifically, does the evidence regarding elevation support the exclusion of some of the land lying within the proposed area's outer boundaries?

What Evidence of Distinctive Geographical Features Has Been Provided?

The petitioner asserts that the geographic and climatic features of the proposed McMinnville viticultural area distinguish it from surrounding areas of the Willamette Valley.

Temperature and Precipitation

According to the petitioner, the proposed viticultural area's location just east of the Coast Range and northeast of the Van Duzer Corridor greatly affects its growing season temperatures and precipitation. He submitted temperature and precipitation data from the Oregon Climate Service comparing McMinnville with two other sites in the western Willamette Valley—Dallas, Oregon, to the south of McMinnville, and Scoggins Dam, Oregon, to the north. This data shows that McMinnville is, on average, warmer and drier than Dallas and Scoggins Dam. McMinnville averaged 2178 degree growing days above 50 degrees during the growing season for the years 1971–2000, with average yearly precipitation of 41.66 inches. Dallas, for the same period, averaged 2116 degree growing days above 50 degrees, with precipitation of 49.13 inches. Scoggins Dam, for the period, averaged 1974 degree growing days above 50 degrees, with precipitation of 50.68 inches.

The petitioner explains that cooler and wetter conditions south of McMinnville are due to the Van Duzer Corridor, a pass through Oregon's Coast Range. Cool, wet marine air flows inland through this pass, causing cooler, wetter growing conditions in areas east of the pass. North and west of McMinnville, at Scoggins Dam for example, the petition states that the land makes a rapid transition to the slopes of the Coast Range, which has much cooler temperatures and greater rainfall.

Soils and Geology

According to the petitioner, the soils and geology of the proposed McMinnville viticultural area are different from those in surrounding areas, thus providing distinctive growing conditions for the area's grapes. To demonstrate the soil differences, the petitioner submitted soil survey maps published by the Soil Conservation Service of the U.S. Department of Agriculture. The soils of the McMinnville area are characterized by several types of shallow (less than 40 inches deep) silty clay and clay loams that exhibit low total available moisture. These soils, primarily Yamhill, Nekia, Peavine, Willakenzie, and Hazelair, all have a typical depth to base materials of between 20 and 40 inches, while the average total available moisture for these soils ranges from 4.8 to 6.3 inches.

To the west and northwest of the proposed area, the petition notes, the soils transition to those of the Olyic and Hembre associations. While these soils are also shallow silty clay and clay loams, they tend to be acidic. To the north of the area (within the proposed Yamhill-Carlton viticultural area), a greater percentage of the soils are of the Woodburn-Willamette association. These soils are of greater depth (60 inches) and have a higher total available moisture (12 to 13 inches). The Woodburn-Willamette soils also predominate to the south and southwest of the proposed area.

The petitioner states that the most distinctive geological feature within the proposed area is the Nestucca Formation, a 2000-foot thick bedrock formation that extends west from the city of McMinnville to the slopes of the Coast Range. This formation contains marine sandstone and mudstone with intrusions of marine basalts. These intrusions differentiate the formation from the pure basaltic parent materials found under the Red Hills and Chehalem Mountains and the pure marine sedimentary materials of the Yamhill Formation found on the valley floor.

Because of these marine basalts, the petition notes that the ground water composition of the McMinnville area is significantly different from that in areas to the east. According to data obtained from Oregon State University's Drinking Water Program, it contains greater dissolved sodium (66 mg/L vs. 16 mg/L), less dissolved potassium (.9 mg/L vs. 3.8 mg/L), and greater dissolved boron (230 ug/L vs. 20 ug/L) than the ground water east of McMinnville. The petitioner asserts that significant variations in these component materials can result in grapes with unique flavor and development characteristics.

Boundary Description

See the narrative boundary description of the petitioned viticultural area in the proposed regulation published near the end of this notice.

Public Participation

Comments Sought

We request comments from anyone interested. Please support your comments with specific information about the proposed area's name, growing conditions, or boundaries. Due to the unusual nature of the proposed boundaries, we are particularly interested in comments regarding the proposed area's elevation limitations. All comments must include your name and mailing address, reference this notice number, and be legible and written in language acceptable for public disclosure.

Although we do not acknowledge receipt, we will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if we can. We regard all comments as originals.

Confidentiality

We do not recognize any submitted material as confidential. All comments are part of the public record and subject to disclosure. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

Submitting Comments

You may submit written comments in any of four ways:

- *By mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *By facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5 by 11 inch paper;

(2) Contain a legible, written signature; and

(3) Be five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *By e-mail:* You may e-mail comments to *nprm@ttb.gov.* Comments transmitted by electronic-mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5 by 11 inch paper.

• *By online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm.*

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Disclosure

You may view copies of the petition, the proposed regulation, the appropriate maps, and any comments received by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Contact the ATF Librarian at the above address or telephone 202–927–7890 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and the comments received on the TTB Web site. All posted comments will show the names of commenters but not street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the ATF Reference Library. To access the online copy of this notice and any posted comments, see this notice number at *http://www.ttb.gov/alcohol/rules/index.htm.*

Regulatory Analyses and Notices

Paperwork Reduction Act

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and its implementing regulations, 5 CFR part 1320, do not apply.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

The principal author of this document is Jennifer Berry, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

List of Subjects in 27 CFR Part 9

Wine.

Authority and Issuance

For the reasons discussed in the preamble, we propose to amend Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

2. Subpart C is amended by adding § 9.____ to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.____ McMinnville.

(a) *Name.* The name of the viticultural area described in this section is ''McMinnville''.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the McMinnville viticultural area are five United States Geological Survey (USGS) topographic maps, scale 1:24,000:

(1) McMinnville, OR, 1957, photorevised 1970;

(2) Muddy Valley, OR, 1979;

(3) Stony Mountain, OR, 1979;

(4) Sheridan, OR, 1956, photorevised 1970; and

(5) Ballston, OR, 1956, photorevised 1970.

(c) *Boundary.* The McMinnville viticultural area is located in Yamhill County, Oregon, and is entirely within the Willamette Valley viticultural area (27 CFR 9.90). Within the boundary description that follows, the McMinnville viticultural area encompasses only that land at and between the 200 foot and 800 foot elevation lines.

(1) From the point of beginning on the McMinnville, OR map in section 18, T.4.S, R.4.W, at the intersection of Baker Creek Road and Hill Road, follow Baker Creek Road west to its intersection with Power Plant Hill Road (known locally as Power House Hill Road) on the Muddy Valley map;

(2) Then proceed southwest on Power Plant Hill Road to its intersection with Peavine Road;

(3) Follow Peavine Road northwest to its intersection with Gill Creek;

(4) Follow Gill Creek in a southwesterly direction to its intersection with the 800-foot contour line in section 18, T.4.S., R.5.W, on the Muddy Valley map;

(5) Starting on the west bank of Gill Creek, follow the meandering 800-foot contour line in a westerly direction, crossing Gopher Valley Road in section 14, T.4.S., R.6.W. on the Stony Mountain map, and continue to follow the 800-foot contour line as it meanders back and forth four times between the Stony Mountain map and the Muddy Valley map in section 24, T.4.S., R.6.W.;

(6) Continue to follow the meandering 800-foot contour line in a southwesterly direction, crossing Rock Creek Road in section 27, T.4.S., R.6.W. on the Stony Mountain map, to the 800-foot contour line's intersection with Rock Creek Road in section 46, T.5.S, R.6.W., on the Stony Mountain map;

(7) Then follow Rock Creek Road south to its intersection with the Salmon River Highway on the Sheridan map;

(8) Follow the Salmon River Highway east through the village of Sheridan and then northeast through the Ballston map, to its intersection with Oldsville Road on the Muddy Valley map;

(9) Follow Oldsville Road northeast to its intersection with McCabe Chapel Road (unnamed on the map);

(10) Follow McCabe Chapel Road west then north to its intersection with Masonville Road;

(11) Follow Masonville Road east to its intersection with Old Sheridan Road on the McMinnville map;

(12) Follow Old Sheridan Road northeast to its intersection with Peavine Road;

(13) Follow Peavine Road northwest for approximately 800 feet to its intersection with Hill Road; and

(14) Follow Hill Road north to its intersection with Baker Creek Road and the beginning point.

Signed: June 19, 2003.

John J. Manfreda,

Acting Administrator.

[FR Doc. 03–16325 Filed 6–26–03; 8:45 am]

BILLING CODE 4810–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 11]

RIN 1512–AC81

Proposed Columbia Gorge Viticultural Area (2002R–103P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: TTB proposes to establish a viticultural area named ''Columbia Gorge'' in Hood River and Wasco Counties, Oregon, and Skamania and Klickitat Counties, Washington, approximately 60 miles east of Portland, Oregon. We invite comments on this proposal.

DATES: Written comments must be received by August 26, 2003.

ADDRESSES: You may send comments to any of the following addresses—

- Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 11);
- 202–927–8525 (facsimile);
- *nprm@ttb.gov* (e-mail); or
- *http://www.ttb.gov* (An online comment form is posted with this notice on our Web site).

You may view copies of the petition, this notice, the appropriate maps, and any comments we receive by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226; phone 202–927–7890. You may also access copies of the notice and comments on our Web site at *http://www.ttb.gov.*

See the Public Participation section of this notice for specific instructions and requirements and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: Bernard J. Kipp, Specialist, Regulations Division (Portland, Oregon), Alcohol and Tobacco Tax and Trade Bureau, PMB 237, 17675 SW Farmington Rd, Aloha, OR 97007; telephone 503–356–1341.

SUPPLEMENTARY INFORMATION:

TTB Background

What Is the Impact of the Homeland Security Act on Rulemaking?

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms (ATF) into two new agencies, the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. Regulation of wine labeling, including viticultural area designations, is the responsibility of the new TTB. References to ATF in this document relate to events that occurred prior to January 24, 2003, or to functions that the Bureau of Alcohol, Tobacco, Firearms and Explosives continues to perform.

Background on Viticultural Areas

Authority To Establish Viticultural Areas

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity, while prohibiting the use of deceptive information on such labels. The FAA Act also authorizes TTB to issue regulations to carry out the Act's provisions.

Regulations in 27 CFR Part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR Part 9, American Viticultural Areas, contains the list of approved viticultural areas.

Definition of American Viticultural Areas

Title 27 CFR 4.25a(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundaries have been delineated in subpart C of part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of wine made from grapes grown in an area to its geographical origin.

Requirements To Establish a Viticultural Area

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Anyone interested may petition ATF to establish a grape-growing region as a viticultural area. The petition must include:

- Evidence of local and/or national name recognition of the proposed viticultural area as the area specified in the petition;
- Historical or current evidence that the proposed viticultural area's boundaries are as specified in the petition;
- Evidence relating to geographical characteristics, including growing conditions such as climate, soil, elevation, physical features, etc., that distinguish the proposed area from surrounding areas;
- A description of the specific boundaries of the viticultural area, based on features reflected on United States Geological Survey (USGS) approved maps of the largest applicable scale; and
- A copy (or copies) of the USGS-approved map(s) with the boundaries prominently marked.

Impact on Current Wine Labels

If this proposed viticultural area is established, bottlers who use brand names like the name of the viticultural area may be affected. If you do use a brand name like ''Columbia Gorge,'' you must ensure that your existing products are eligible to use the name of the viticultural area as an appellation of origin. For a wine to be eligible, at least 85 percent of the grapes in the wine must have been grown within the viticultural area.

If the wine is not eligible to use the appellation, you must change the brand name of that wine and obtain approval of a new label. Different rules apply if you label a wine in this category with a brand name that was used on a label approved before July 7, 1986. See 27 CFR 4.39(i) for details. Additionally, when the name of a viticultural area is presented on a wine label in a context other than as the claimed appellation of origin, then the use of such a viticultural area name is subject to the general prohibitions against misleading representation in part 4 of the regulations.

Columbia Gorge Petition

General

We received a petition requesting establishment of a new viticultural area to be called ''Columbia Gorge.'' Mark Wharry filed the petition on behalf of the Columbia River Gorge Wine Growers Association. According to the petitioner, the Columbia Gorge is a dramatic river corridor cut through the Cascade Mountains and is the only sea level pass through the range. The petitioner states that this narrow, winding valley with its steep, rising bluffs creates a unique grape-growing region.

This proposed 280 square mile viticultural area is located about 60 miles east of Portland, Oregon, and straddles the Columbia River for fifteen miles while extending into south-central Washington and north-central Oregon. The proposed area surrounds Hood River, Oregon, and White Salmon, Washington, and is generally bordered by B Z Corner, Washington, on the north, Lyle, Washington, on the east, Parkdale, Oregon, on the south, and Vinzenz Lausmann State Park, Oregon, on the west. The proposed area is just west of the established Columbia Valley viticultural area and shares a part of its border with that area.

Viticultural History

According to the petitioner, grapes have been grown in the Columbia Gorge for over a century. In the 1880s, the Jewitt family, founders of the town of

White Salmon, Washington, built terraces on a wide south-facing slope on the bluff above Bingen, Washington. They planted American vines that they had brought with them from Illinois. The petitioner also refers to two other pioneer families who brought grape cuttings to the Columbia Gorge. John Balfour, the youngest son of English Lord Balfour, planted and raised a quantity of grapes in the early 1900s near the current location of Lyle, Washington. Leonis and Elizah Meress brought grape cuttings to the area from their native Adele Nord, a village in one of France's coldest regions. Some of the vinifera vines they planted are still alive today and have withstood temperatures well below zero.

Interest in grape growing in the Columbia Gorge was renewed in the early 1960s when experimental plots were planted in White Salmon, Washington. Later, commercial plots were planted under the direction of Washington State University. Today the Columbia River Gorge Wine Growers Association is comprised of 24 growers and 4 wineries. There are 284 acres currently planted to wine grapes in the proposed Columbia Gorge viticultural area with more being planted each year.

Evidence That the Name of the Area Is Locally or Nationally Known

The petitioner indicates that local residents know this narrow, winding valley, with its steeply rising bluffs as ''the Gorge,'' ''Columbia Gorge,'' and ''Columbia River Gorge.'' The petitioner notes that there was some debate as to whether the proposed area's name should be ''Columbia Gorge'' or ''Columbia River Gorge'' since both terms are utilized. The term ''Columbia River Gorge'' often appears as a more formal title, such as the Columbia River Gorge National Scenic Area and the Columbia River Gorge National Fish Hatcheries.

The petitioner contends, however, that ''Columbia Gorge'' is the most common usage and involves and connotes an area smaller in size than the boundaries of the Federally designated scenic area. Examples of this usage include the Columbia Gorge Interpretive Center of the Skamania County Historical Society, the Columbia Gorge Discovery Center of the Wasco County Historical Museum, and various businesses and tourist attractions. Promotional groups such as the Skamania County Chamber of Commerce, Cascade Locks, use maps titled ''Experience the Columbia Gorge'' and ''Heart of the Columbia Gorge.''

Evidence That Supports the Proposed Boundaries

The petitioner states that the proposed Columbia Gorge viticultural area's boundaries are based on a combination of topographic, soil, and climatic factors that contrast with the nearby Columbia Valley and Willamette Valley viticultural areas. The petitioner uses the 2000-foot elevation line for much of the proposed boundary because it includes lower, flatter, loamy soil and agricultural areas, while excluding higher-elevation lands more suitable for timber due to their steeper, gravelly soil.

Evidence of Distinctive Geographic Features

The petitioner provided the following evidence that the proposed Columbia Gorge viticultural area is a unique grape-growing region distinguished by its topography, soils, and climate:

Topography

The Columbia River carved the Columbia Gorge, and its sides become steep cliffs as the river twists and turns in its westbound course. The sides of the gorge range from sheer rock faces comprised of volcanic outcroppings of igneous and metamorphic rock to gentle stair-step benchlands, which reflect prehistoric lava flow. These benchlands are the most desirable for vineyards, with deep soil and good sun exposure.

The gorge acts as a funnel that works the moist marine air masses to its west and the drier air to its east back and forth. The proposed Columbia Gorge viticultural area benefits from these prevailing winds, which originate over the Pacific ocean and moderate temperatures that otherwise might be warmer in the summer and cooler in the winter.

Soils

The petitioner states that, in general, soil types within the boundaries of the proposed Columbia Gorge viticultural area are silty loams, as opposed to the more gravelly soils found outside the area. As the valleys on both the Washington and Oregon sides of the proposed area slope up to the surrounding hills, the terrain becomes much steeper, and the soil types change noticeably.

Permeability of the silty loams found within the proposed area is slow to moderate, and available water capacity is high. Effective rooting depth is 60 inches or more. Soils present within the proposed area include Chemawa, Underwood Loam, McGowen, Wyest Silt Loam, Van Horn, Parkdale Loam, and Oak Grove Loam series.

By contrast, the areas immediately surrounding the proposed area, both above the 2,000-foot elevation line and east to the Columbia Valley, are generally comprised of gravelly, higher permeability soils. These soils typically support sloped timber areas at more than 2,000 feet above sea level. Examples of soils outside the proposed area are Steeper McElroy, Undusk Gravelly Loam, Husum Gravelly Loam, Rock Outcrop, Bins-Bindle, Yallani, and Hesslan-Skyline series.

Rainfall

The petition states that yearly rainfall totals determined the eastern and western borders of the proposed area. The lands west of the proposed area have more rainfall, cloud cover, and vegetative growth. These factors result in benchlands unsuitable for viticulture. The terrain east of the proposed area is much more arid.

Annual rainfall within the proposed area ranges from 30 inches in the Hood River, Oregon, area at the western end to 18 inches near its eastern end at Lyle, Washington. By comparison, Bonneville Dam and Skamania, Washington, two places west of the proposed area, average 77.54 and 85.49 inches of annual rainfall, respectively. Two towns east of the proposed area, The Dalles, Oregon, and Yakima, Washington, respectively average 14.52 and 8.21 inches of rainfall annually.

Temperature

The average growing temperatures within the proposed area range from 62 degrees (Appleton and Wind River, Washington) to 65 degrees (Hood River, Oregon) as compared to 61 degrees in Skamania and 71.6 degrees in The Dalles. In general, grapes grown in the proposed Columbia Gorge appellation region are early varietals, such as Pinot Noir and Gewurztraminer, which require less high temperature days. By contrast, the Columbia Valley area is able to grow much later varieties, *e.g.,* Merlot and Cabernet Sauvignon, due to significantly higher degree growing days.

Proposed Boundaries

See the narrative boundary description and the listing of maps for the petitioned viticultural area in the proposed regulation published at the end of this notice.

Public Participation

Comments Sought

We request comments from anyone concerned and are particularly interested in comments on whether the name ''Columbia River Gorge'' is

appropriate for the proposed area. Please support your comments with specific information. Examples include name evidence and data about growing conditions or area boundaries.

Although we do not acknowledge receipt, we will consider your comments if we receive them on or before the closing date. We will consider comments received after the closing date if we can. We regard all comments as originals.

Comment Confidentiality

We do not recognize any submitted material as confidential. We will disclose all information on comments and commenters. Do not enclose in your comments any material you consider confidential or inappropriate for disclosure.

Disclosure

You may view copies of the petition, the proposed regulation, the appropriate maps, and any comments received by appointment at the ATF Reference Library, 650 Massachusetts Avenue, NW., Washington, DC 20226. You may also obtain copies at 20 cents per 8.5 x 11 inch page. Contact the ATF Librarian at the above address or telephone 202–927–7890 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and the comments received on the TTB Web site. All posted comments will show the names of commenters but not street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the ATF Reference Library. To see the online copy of this notice, visit *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''View comments'' link under this notice number to view the posted comments.

Submission of Comments

You may submit comments in any of four ways.

- *By mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *By facsimile:* You may submit comments by fax to 202–927–8525. Faxed comments must—

(1) Be on 8.5 by 11 inch paper;

(2) Contain a legible, written signature; and

(3) Be five or less pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *By e-mail:* You may e-mail comments to *nprm@ttb.gov.* Comments transmitted by electronic-mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5 by 11 inch paper.

- *By online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''Send comments via email'' link under this notice number.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Regulatory Analyses and Notices

Paperwork Reduction Act

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and its implementing regulations, 5 CFR part 1320, do not apply.

Regulatory Flexibility Act

We certify that this regulation, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses. The proposal imposes no new reporting, recordkeeping, or other administrative requirements.

The establishment of viticultural areas represents neither our endorsement nor approval of the quality of wine made from grapes grown in the areas. Rather, it is a system that identifies areas distinct from one another. In turn, identifying viticultural areas lets wineries describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Thus, any benefit derived from using a viticultural area name results from the proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a ''significant regulatory action'' as defined by Executive Order 12866. Accordingly, no regulatory assessment is required.

Drafting Information

The principal author of this document is Bernard J. Kipp, Regulations Division (Portland, Oregon), Alcohol and Tobacco Tax and Trade Bureau.

List of Subjects in 27 CFR Part 9

Wine.

Authority and Issuance

For the reasons stated in the preamble, the Alcohol and Tobacco Tax and Trade Bureau proposes to amend Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

2. Subpart C is amended by adding § 9.____ to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.____ Columbia Gorge

(a) *Name.* The name of the viticultural area described in this section is ''Columbia Gorge''.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Columbia Gorge viticultural area are 11 USGS, 1:24,000 scale topographic maps. They are—

(1) Hood River Quadrangle, Oregon—Washington, 1994;

(2) Northwestern Lake Quadrangle, Washington, 1983;

(3) Husum Quadrangle, Washington—Klickitat Co., 1994;

(4) Appleton Quadrangle, Washington—Klickitat Co., 1994;

(5) Lyle Quadrangle, Washington—Oregon, 1994;

(6) Brown Creek Quadrangle, Oregon, 1994;

(7) Ketchum Reservoir Quadrangle, Oregon, 1994;

(8) Parkdale Quadrangle, Oregon—Hood River Co., 1994;

(9) Dee Quadrangle, Oregon—Hood River Co., 1994; and

(10) Mt. Defiance Quadrangle, Oregon—Washington, 1994.

(c) *Boundaries.* The Columbia Gorge viticultural area is located in Hood River and Wasco Counties, Oregon, and Skamania and Klickitat Counties, Washington. The starting point of the boundary is on the Hood River map, at the intersection of State highway 14 and the range line between R9E and R10E, on the north bank of the Columbia River.

(1) From this point, go north along the R9E/R10E range line to the northwest corner of section 19, T3N, R10E;

(2) Then go east along the section line to the northeast corner of section 20, T3N, R10E;

(3) Then go north along the section line, crossing onto the Northwestern Lake map, to the northwest corner of section 33, T4N, R10E;

(4) Then go east on the section line to the northeast corner of section 33, T4N, R10E;

(5) Then go north on the section line to the northwest corner of section 27, T4N, R10E;

(6) Then go east on the section line to the northeast corner of section 27, T4N, R10E;

(7) Then go north on the section line to its intersection with the township line between T4N and T5N;

(8) Then go east on the township line, crossing onto the Husum map, to the northeast corner of section 5, T4N, R11E;

(9) Then go south on the section line to the southwest corner of section 9, T4N, R11E;

(10) Then go east on the section line to the northeast corner of section 15, T4N, R11E;

(11) Then go south on the section line to the southwest corner of section 26, T4N, R11E;

(12) Then go east on the section line, crossing onto the Appleton map, to the range line between R11E and R12E;

(13) Then go south on the range line approximately 1.25 miles to its intersection with the 2,000-foot contour line near the northeast corner of section 1, T3N, R11E;

(14) Then go south along the 2,000-foot contour line through sections 1 and 12; then generally east through sections 7, 18, 8, and 9 to section 10; then generally north, weaving back and forth between sections 3, 4, 33, and 34; then south to section 3, until the 2,000-foot contour line first intersects the section line between sections 2 and 3, T3N, R12E, near a creek and an unnamed light duty road;

(15) Then go south on the section line, crossing onto the Lyle map, and continuing south until it intersects with the Klickitat River;

(16) Then go generally southwest along the Klickitat River until it joins the Columbia River, then continue southwest in a straight line to the Washington-Oregon State line in the center of the Columbia River;

(17) Then follow the State line generally southeast until it intersects with a northward extension of the range line between R12E and R13E;

(18) Then go south on the range line, crossing onto the Brown Creek map, to the point where the range line intersects the base line between T1N and T1S;

(19) Then go west along the base line, crossing on to the Ketchum Reservoir map, to its intersection with the range line between R11E and R12E in T1N;

(20) Then go north on the range line to its intersection with the township line between T1N and T2N;

(21) Then go west on the township line, crossing on to the Parkdale map, to its intersection with the range line between R10E and R11E;

(22) Then go south on the range line approximately 2 miles to its intersection with the 2,000-foot contour line near the southern border of section 12, T1N, R10E;

(23) Then go along the 2,000-foot contour line generally southwest through sections 12, 13, 14, 23, 22, 26, 27, and 34 in T1N, and section 4 in T1S, to the 2,000-foot contour line's intersection with the section line between sections 4 and 9, T1S, R10E;

(24) Then go west along the section line to its intersection with the range line between R9E and R10E in T1S;

(25) Then go north along the range line to its intersection with the base line between T1S and T1N;

(26) Then go west along the baseline, crossing onto the Dee map, to its intersection with the range line between R9E and R10E;

(27) Then go north along the range line to the southeast corner of section 13, T1N, R9E;

(28) Then go west along the section line to the southwest corner of section 14, T1N, R9E;

(29) Then go north along the section line to the northwest corner of section 14, T1N, R9E;

(30) Then go east along the section line to the northeast corner of section 14, T1N, R9E;

(31) Then go north along the section line until its intersection with the township line between T1N and T2N;

(32) Then follow the township line east to its intersection with the range line between R9E and R10E;

(33) Then go north along the range line, crossing on to the Mt. Defiance map, to the Washington-Oregon State line in the Columbia River;

(34) Then go northeast along the State line, crossing onto the Hood River map, to its intersection with a southward extension of the range line between R9E and R10E;

(35) Then go due north along that extension approximately 0.5 mile to the starting point.

Signed: June 18, 2003.

John J. Manfreda,

Acting Administrator.

[FR Doc. 03–16324 Filed 6–26–03; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–243–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, OSM, are announcing the receipt of a proposed amendment to the Kentucky regulatory program (the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or ''the Act''). Kentucky's proposed amendment consists of legislation passed by the Kentucky General Assembly in 2002 designating the ridge top of Pine Mountain as the Pine Mountain Trail State Park. Because the legislation designating the park expressly provides that it does not affect mining rights, it may raise issues concerning Federal unsuitability rules.

We are seeking public comments on two issues. First, we are seeking comments on whether, based on the discussion found in Section II of this notice, the Kentucky legislation constitutes an amendment to the approved regulatory program. Second, should the legislation constitute an amendment to the approved program, we are seeking public comments on whether the State legislation is consistent with Federal unsuitability provisions.

This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., e.s.t. July 28, 2003. If requested, we will hold a public hearing on the amendment on July 22, 2003. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on July 14, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Mr. William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, a listing of any scheduled public hearings, and all

written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260–8400. E-mail: *bkovacic@osmre.gov.*

Department for Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859) 260–8400. Internet: *bkovacic@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
V. Procedural Determinations

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * * and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21434). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

On March 15, 2002, the Kentucky General Assembly enacted House Bill Number 556 (HB 556), which established the Pine Mountain Trail State Park in southeastern Kentucky. The bill provides that the Act and its implementing regulations are to be administered by the Kentucky Department of Parks. On March 27, 2003, Kentucky submitted HB 556 to us for processing as a State program amendment.

Federal regulations at 30 CFR 732.17 establish guidelines for processing and requiring State program amendments. This section of the Federal regulations applies to any proposed changes which affect implementation of the approved regulatory program. The regulations state, in part:

> * * * proposed changes which affect the implementation, administration or enforcement of the approved State program. At a minimum, notification shall be required for—
>
> (1) Changes in the provisions, scope or objectives of the State program;
>
> (2) Changes in the authority of the regulatory authority to implement, administer or enforce the approved program; * * *
>
> (3) Changes in the State law and regulations from those contained in the approved State program;

Because HB 556 does not directly revise Kentucky's approved State program and because HB 556 is to be implemented by the Kentucky Department of Parks and not by the Kentucky Department of Surface Mining Reclamation and Enforcement, we are soliciting public comment on whether HB 556 amends the approved program and thus requires approval of OSM for implementation.

Should we determine that it does amend the approved regulatory program, we are also seeking comments on the legislation as it relates to compatibility with the Federal unsuitability requirements. Both section 522(e)(5) of SMCRA and section 350.085(3) of the Kentucky Revised Statutes (KRS) preclude, subject to valid existing rights, mining operations within three hundred feet of any public park. Section 4(2) of HB 556 states that ''notwithstanding the provisions in KRS 350.085(3) * * * in acquiring any interests the Commonwealth [Kentucky] or its agencies shall waive the three hundred (300) foot restriction contained in KRS 350.085(3) * * *'' In HB 556 Section 11(1), the State legislature also recognized that ''* * * nothing in Sections 1 to 12 of this Act shall be construed or interpreted as affecting, in any way, the legitimate use of surface and subsurface property adjacent to or visible from the trail, whether such use was in effect upon the designation of the trail or not, including but not limited to ''mining, both by surface and underground mining means * * *''.

III. Public Comment Procedures

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Lexington Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS No. KY–243–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859) 260–8400.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on July 14, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting as part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

If HB 556 is approved as a state program amendment, it would not have takings implications because ''* * * nothing in sections 1 to 12 of this Act shall be construed or interpreted as affecting, in any way, the legitimate use of surface and subsurface property adjacent to or visible from the trail, whether such use was in effect upon the designation of the trail or not, including but not limited to mining * * * both by surface and underground mining means * * *''.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by Section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. This proposed rule applies only to the Kentucky program and therefore does not affect tribal programs.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, shall not be construed or interpreted as ''affecting, in any way, the legitimate use of surface and subsurface property adjacent to or visible from the trail, whether such use was in effect upon the designation of the trail or not, including but not limited to * * * mining, both by surface and underground mining means * * *''. If it is approved as a state program amendment, it would not have a significant economic effect upon a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or

tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 22, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03–16354 Filed 6–26–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 3

[Docket No.: 2003–P–019]

RIN 0651–AB63

Clarification of Power of Attorney Practice, and Revisions to Assignment Rules

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rule making.

SUMMARY: The United States Patent and Trademark Office (Office) is proposing changes to the rules of practice to allow for more efficient processing of powers of attorney and assignment documents within the Office. For example, the Office proposes to require applicants to use the Office's Customer Number practice if a power of attorney is to be given to more than ten registered patent practitioners. In addition, the Office proposes to discontinue the current Office practice of returning patent and trademark assignment documents submitted by mail for recording in the assignment database, and to dispose of the documents according to a record retention schedule after scanning.

DATES: To be ensured of consideration, written comments must be received on or before August 26, 2003. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail over the Internet addressed to: *AB63.comments@uspto.gov.* Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450; or by facsimile to (703) 872–9411, marked to the attention of Karin Ferriter. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3½-inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, located at Room 3D65 of Crystal Plaza 3/4, 2201 South Clark Place, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: *http://www.uspto.gov*). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Karin Ferriter ((703) 306–3159) (Office of the Deputy Commissioner for Patent Examination Policy, Mary Hannon ((703) 308–8910, ext. 137) (Office of the Commissioner for Trademarks), or Robert J. Spar ((703) 308–5107) (Office of the Deputy Commissioner for Patent Examination Policy), directly by phone, or by facsimile to (703) 872–9411, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: The rules pertaining to access to assignment documents and other records related to assignments are proposed to be clarified. In addition, the rules pertaining to power of attorney are proposed to be revised to reflect Customer Number practice, a practice wherein an applicant or an assignee of the entire interest in an application can give power of attorney to a list of registered patent practitioners associated with a Customer Number. *See Manual of Patent Examining Procedure* (8th ed. 2001) (Rev. 1, Feb. 2003) (MPEP), Section 403 for a description of Customer Number practice. The rules are also proposed to be revised to explain the requirements of a power of attorney and to limit the number of attorneys who may be given a power of attorney without using Customer Number practice. Furthermore, the rules are proposed to be amended to discontinue the ''associate'' power of attorney practice, to clarify the procedures related to revocation of power of attorney, and to clarify how a registered practitioner may sign a document in a representative capacity.

Documents affecting the title to a patent or trademark property (*e.g.,* assignments, or security interests) are currently recorded in the Office's assignment database, upon submission of the document with the appropriate cover sheet and the fee required by 35 U.S.C. 41(d)(1). In addition, Government Interests are recorded, upon submission of the document, as required by Executive Order 9234 of February 18, 1944 (9 FR 1959, 3 CFR 1943–1948 Comp., p. 303). Since 1995, assignment documents have been recorded in the Office's Assignment database without stamping or otherwise marking the document that was submitted for recordation. The automated system that receives documents for recordation assigns the reel and frame number to the document and places the recordation stampings on the images that are stored in the automated system.

Currently, the Office returns an assignment document only if it was mailed to the Office. The Office does not return assignment documents that are submitted by facsimile or electronically. When the Office returns the document submitted by mail for recordation, the document that is returned is exactly the same as the document that was submitted, except that assignment documents submitted with an application may also contain a bar code for the application number and a mail room date stamp. The Office does not stamp or otherwise indicate the reel and frame number on the actual document that is submitted for recordation. *See Facsimile Submission of Assignment Documents is Now Available to PTO Customers* posted on the Office's Internet Web site at: *http://www.uspto.gov/web/offices/ac/ido/opr/ptasfax.pdf* (Jan. 5, 2000), and *Update on Facsimile Submission of Assignment Documents to the USPTO,* 1237 *Off. Gaz. Pat. Office* 81 (Aug. 15, 2000). The Office's electronic filing system for patent applications is discussed at *Legal Framework for the Use of the Electronic Filing System,* 1263 *Off. Gaz. Pat. Office* 60, 61 (Oct. 8, 2002).

As part of an effort to transform the Office into a quality-focused, highly productive, responsive organization supporting a market-driven intellectual property system, the Office is migrating to electronic files from paper files. *See Changes To Implement Electronic Maintenance of Official Patent Application Record,* 68 FR 14365 (Mar. 25, 2003), 1269 *Off. Gaz. Pat. Office* 166 (Apr. 22, 2003) (proposed rule). As part

of this migration, all papers received in the Office on paper will be scanned and transmitted electronically within the Office. With this new procedure, the Office will be unable to forward some paper copies of documents to one part of the Office (*e.g.,* assignments to Assignment Services Division) and otherwise store other papers (*e.g.,* retain the paper copies of amendments according to the retention schedule). All documents will need to be processed in the same manner; as a result, the Office cannot accept 8½ by 14-inch paper for assignment documents but only 8½ by 11-inch paper for all other correspondence.

Currently, an assignment document cannot be faxed to the Office unless the patent application number or patent number, trademark serial number or trademark registration number is provided. As a result, on filing a patent application, applicants routinely include a copy of an assignment with the original application papers. Under the proposed new practice, applicants may continue to file a copy of the assignment document with the application papers, but should not anticipate a return of the submitted copy of the assignment document; only a Notice of Recordation will be transmitted to the party requesting recordation by the Office. To assist applicants in matching the Notice of Recordation transmitted by the Office with applications known to have been filed on a certain day, the Notice of Recordation will be revised to indicate the title of invention.

Discussion of Specific Rules

Section 1.1: The Office proposes to revise § 1.1(a)(4) to delete ''or under § 3.81 of this chapter.'' Under the proposed rule, the Office will no longer permit the submission of an assignment document together with the issue fee payment or a request to issue a patent to an assignee. Instead, the assignment documents (with cover sheets) should be faxed to (703) 306–5995, submitted through one of the electronic filing systems, or submitted in a separate envelope and be sent to Mail Stop Assignment Recordation Services, Director of the United States Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313–1450. This will permit the assignment document to be recorded more quickly as it will be directly routed to the appropriate area of the Office for recording.

Section 1.12: The Office proposes to amend § 1.12(b) to replace ''has not been published under 35 U.S.C. 122(b) are not available to the public'' with ''is open to the public pursuant to § 1.11 or for which copies or access may be supplied pursuant to § 1.14 are available to the public'' in order to clarify the assignment records that are available to the public. Paragraph (b) of § 1.12 is further proposed to be amended to provide that copies of any such assignment records and related information that are not available to the public shall be obtainable only upon written authority of the applicant or applicant's assignee, patent attorney, or patent agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided in part 1.

As proposed to be revised, § 1.12(b) more clearly provides, for example, for an application that is relied upon under 35 U.S.C. 120 in an application that has issued as a patent, any assignment records relating to the parent application could be considered to relate to the patent. Without the amendment to § 1.12(b), the rule suggests that the assignment records for the parent application are not available to the public. This was not the intended construction, and it is inconsistent with MPEP § 301.01. Under proposed § 1.12(b), the assignment records for the parent application of a patent, or an application that has published under 35 U.S.C. 122(b), would be open to public inspection.

Section 1.31: The Office proposes to revise the title to refer to ''registered patent attorney or patent agent'' and to revise § 1.31 to introduce the term ''power of attorney.''

Section 1.32: The Office proposes a new § 1.32 to define ''power of attorney'' and ''Customer Number,'' among other things, and to set forth the requirements for a power of attorney. ''Power of attorney'' is defined in paragraph (a)(1) of § 1.32 as a written document by which a principal designates an agent to act on his or her behalf. A power of attorney includes an authorization of an agent. ''Principal'' is defined in paragraph (a)(2) of § 1.32 as either the applicant for patent (§ 1.41(b)) or the assignee of the entire interest, and the entity who executes a power of attorney designating one or more agents to act on his or her behalf. ''Revocation'' is defined in paragraph (a)(3) of § 1.32 as the cancellation by a principal of the authority previously given by the principal to an agent. ''Customer Number'' is defined in paragraph (a)(4) of § 1.32 to be a number that may be used to: (i) Designate the correspondence address of a patent application such that the correspondence address for the patent application would be the address associated with the Customer Number; (ii) designate the fee address (37 CFR 1.363) of a patent by a Customer Number such that the fee address for the patent would be the address associated with the Customer Number; and (iii) specify, in a power of attorney, that each of the practitioners associated with a Customer Number have a power of attorney.

Paragraph (b) of proposed § 1.32 sets forth the requirements for a power of attorney, other than a power of attorney in an international application (see § 1.455 for the power of attorney in an international application and note that Customer Number practice cannot be used in an international application). To be valid, the power of attorney, in an application other than an international application, must: (1) Be in writing; (2) name as agent either: (i) One or more joint inventor (see § 1.45), (ii) up to ten registered patent attorneys, registered patent agents, or other individuals authorized to practice before the United States Patent and Trademark Office in patent cases (see § 10.6 and § 10.9(a) and (b) of this subchapter), or (iii) those registered patent practitioners associated with a Customer Number; (3) give the agent power to act on behalf of the principal; and (4) be executed by the principal.

The new § 1.32 is proposed to set a limit on the number of patent practitioners who can be given a power of attorney without using Customer Number practice because it is extremely burdensome for the Office to manually enter a long list of patent practitioners, particularly where the same list of patent practitioners is to be entered for a large number of applications. Applicants desiring to appoint a large number of patent practitioners may continue to do so, but to appoint more than ten, use of Customer Number practice will be required. If a power of attorney is submitted listing more than ten patent practitioners, and the rules are revised as proposed, no patent practitioners will be entered into the Office's computer systems because the power of attorney would not comply with the rules. Furthermore, the power of attorney would not be ''partially accepted'' so as to only accept, for example, the first ten patent practitioners. This policy is consistent with the Office practice of not entering just a part of a paper that complies with the rules. As a result, if the power of attorney lists more than ten patent practitioners and does not give power of attorney to a Customer Number, then

applicant will be sent a notice to either submit a power of attorney with ten or fewer patent practitioners or to use Customer Number practice. For example, if more than ten patent practitioners have been named in a combined declaration and power of attorney (*e.g.,* from an earlier filed application (see § 1.63(d)(1)(iv))), then the Office of Initial Patent Examination will mail a notice requiring a new power of attorney. If the application has been assigned, the new power of attorney should be signed by the assignee of the entire interest.

Although any power of attorney listing more than ten patent practitioners would be given a paper number and physically entered into the patent application file, the patent practitioners so listed would not be of record (entered into the Office computer system or permitted to sign an express abandonment). Customer Number practice allows the Office to enter a single five or six digit number into the power of attorney field instead of a large number of patent practitioners and is a more appropriate use of Office resources. *See* MPEP § 403.

Section 1.33: Section 1.33 is proposed to be revised to reflect Customer Number practice. If applicant provides, in a single document, both a complete typed address and a Customer number and requests that both be used for the correspondence address, the address associated with the Customer Number will be used. Section 1.33(a) is proposed to be revised to include the following sentence: ''If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if the address associated with a Customer Number is one of the addresses given.'' Applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use a correspondence address in more than one paper, priority will be accorded to the correspondence address specified in the following order: (1) Application data sheet (ADS); (2) Application transmittal; (3) Oath or declaration (unless power of attorney is more current); and (4) Power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (*i.e.,* the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to § 1.33(a)(1).

Paragraph (b)(1) of § 1.33 is proposed to be revised to change the reference from § 1.34(b) to proposed new § 1.32.

Paragraph (b)(2) of § 1.33 is proposed to be revised to change § 1.34(a) to § 1.34 to be consistent with the proposal to revise § 1.34.

Paragraph (c) of § 1.33 is proposed to be revised to change the cross-reference to § 1.32(b) instead of § 1.34(b) and to change the reference to § 1.34(a) to § 1.34 to be consistent with the proposed revision to § 1.34.

Section 1.34: The Office proposes to revise title to ''Acting in a Representative Capacity.'' The paragraph designation for paragraph (a) is proposed to be deleted and '', pursuant to § 1.31,'' is proposed to be deleted for clarity. In addition, ''a registered patent attorney or patent agent should specify his or her registration number with his or her signature'' is proposed to be changed to ''a registered patent attorney or patent agent must specify his or her exact name, as registered, and the registration number with his or her signature.'' When a registered patent attorney or patent agent acts in a representative capacity, it should be clear who is signing the paper. Since signatures are not always legible, it is necessary for the registered patent attorney or agent to specify his or her registration number, and also to include his or her exact name so that the identity of the person who is acting in a representative capacity may be identified.

Paragraph (b) of § 1.34 is proposed to be deleted. With Customer Number practice, the associate power of attorney practice set forth in § 1.34(b) is no longer necessary because once power of attorney is given to the patent practitioners associated with a Customer Number, each attorney associated with the Customer Number has an equal right to change the list of patent practitioners associated with that Customer Number. Customer number practice is also preferable to having an associate power of attorney practice because when a principal attorney gives an associate power of attorney, and the principal attorney subsequently dies or withdraws as attorney, the associate power of attorney is terminated. The termination of the authority of the associate attorney is difficult for the Office to enforce. When Customer Number practice is used, the death or withdrawal of an attorney originally associated with the Customer Number has no impact upon practitioners who later become associated with the Customer Number, and as a result, Customer Number practice is more efficient for the Office to administer than the associate power of attorney practice. Furthermore, an applicant or assignee who gives power of attorney to a limited number of patent practitioners has expressed a desire to be represented by only those patent practitioners. As § 1.34 is proposed to be revised, if Customer Number practice is not used, an applicant or assignee will be required to sign a new power of attorney in order for an associate practitioner to be ''of record'' instead of the specifically identified principal patent practitioner. Of course, a registered patent practitioner may still act in a representative capacity pursuant to § 1.34 (by providing his or her exact name and a registration number with his or her signature), and the proposed rule changes do not propose to change this flexibility.

Section 1.36: The Office proposes to delete ''or authorization'' from the title and to revise § 1.36 to include new paragraphs (a) and (b) to address revocation of power of attorney in one paragraph and withdrawal in another paragraph. In addition, ''or authorization of agent'' is proposed to be deleted since the term ''power of attorney'' has been defined to include an authorization of an agent. The cross-reference to § 1.31 is proposed to be changed to § 1.32(b).

Paragraph (a), as proposed to be revised, addresses revocation of a power of attorney. A registered patent attorney or patent agent will be notified of the revocation, except that where the power of attorney is to the patent practitioners associated with a Customer Number, the notice is only given when the power of attorney to the practitioners associated with the Customer Number is revoked. When the power of attorney is revoked, a single notice is mailed to the correspondence address in effect before the power of attorney was revoked. An associate registered patent attorney or patent agent whose address is the same as that of the principal registered patent attorney or patent agent is not separately informed of a revocation. As a result, the Office has proposed to delete the suggestion in the rule that such an associate practitioner would be notified of the revocation of power of attorney.

When power of attorney is given to the registered patent attorneys and patent agents associated with a Customer Number, for example with PTO/SB/81, the list of patent

practitioners associated with the Customer Number is changed by changing the data associated with the Customer Number (using, for example PTO/SB/124 (2 pages 124A & 124B), Request for Customer Number Data Change). No notice is given to the patent practitioners who are added or removed from the Customer Number when they are added or removed.

As to proposed paragraph (b) of § 1.36, the paragraph is proposed to be revised to state that when the power of attorney for an application is given to a Customer Number, all of the patent practitioners associated with the Customer Number may not be permitted to withdraw if an application with the power of attorney to the patent practitioners associated with the Customer Number has an Office action to which a reply is due and insufficient time remains in a period for reply for applicant to prepare a reply. *See* MPEP Section 402.06.

Section 3.1: The Office proposes to revise § 3.1 to identify which trademark applications are covered by 37 CFR part 3, and to delete ''or a transfer of its entire right, title and interest in a'' so that the definition of an assignment includes a transfer of part of the right, title and interest in a registered mark or a mark for which an application to register has been filed. The Office also proposes to revise § 3.1 to add ''United States'' before ''Patent and Trademark Office'' in the definition of ''Office'' to properly reflect the current name of the Office in the rule. See 35 U.S.C. 1(a).

Section 3.12: The Office proposes to add § 3.12 to identify those trademark applications or registrations that are not covered by 37 CFR part 3. In paragraph (a) of § 3.12, with regard to trademark applications or registrations that are not covered by 37 CFR part 3, the documents related to a holder's right to dispose of an international trademark registration are required to be recorded by the International Bureau of the World Intellectual Property Organization. New paragraph (b) of § 3.12 provides that when the Office is notified by the International Bureau of an assignment or restriction of a holder's right of disposal of an international registration with an extension of protection to the United States, the Office will take note of the assignment or restriction in its records.

Section 3.24: The Office proposes to revise § 3.24 to include two paragraphs, namely, paragraphs (a) and (b).

Proposed new paragraph (a) addresses documents and cover sheets for electronic submissions, and requires all documents to be submitted electronically to be submitted as digitized images in Tagged Image File Format (TIFF). In addition, when printed to a paper size of 8½ by 11 inches (21.6 by 27.9 cm) (''letter size'') or DIN size A4 (21.0 by 29.7 cm), the document must be legible and a one-inch (2.5 cm) margin must be present on all sides.

Proposed new paragraph (b) addresses documents and cover sheets for paper and facsimile submissions. Section 3.24(b) is proposed to provide that for paper submissions (*e.g.*, documents that are mailed to the Office) the original document may no longer be submitted.

Proposed new paragraph (b) provides that ''Either a legible true copy of the original document or a legible extract of the original document'' may be submitted for recordation. Paragraph (b) also includes an explanation to explain why original documents should not be submitted for recording: ''The Office will not return recorded documents, so original documents must not be submitted for recording.'' As explained above, the Office is moving to uniform processing of incoming papers, with incoming papers being scanned upon receipt, electronically routed within the Office, and an appropriate reply being mailed. With this uniform procedure, the Office will not return assignment documents submitted for recordation. As a result, the Office is not permitting the submission of originals of assignment documents, and instead is requiring that a legible true copy or a legible extract of an original document be submitted. The term ''an extract of the original document'' is being added to reflect the current practice of submitting redacted copies of assignment documents, where part of an assignment discusses matters other than assignment of interests related to a patent or a trademark.

The Office further proposes to revise § 3.24 to provide, in paragraph (b), that documents (copies) submitted for recording must be on sheets of paper having a size of 8½ by 11 inches (21.6 by 27.9 cm) (''letter size'') or DIN size A4 (21.0 by 29.7 cm). That is, ''legal-size'' (8½ by 14 inch or 21.64 by 33.1 cm) sheets of paper are no longer permissible. If the original assignment document is on ''legal size'' sheets of paper, the assignment document should be reduced to 8½ by 11-inch or DIN size A4 paper for submission to the Office (*e.g.*, by photocopying it onto letter-size paper). Sheets of paper that are either 8½ by 11 inches (21.6 by 27.9 cm) or DIN size A4 (21.0 by 29.7 cm) are required for scanning purposes.

Section 3.25: The Office proposes to amend § 3.25 to delete paragraph (a)(1) and renumber paragraphs (a)(2) through (4) as (a)(1) through (3), respectively. Paragraph (a)(1) is being deleted to prohibit applicants from submitting the original assignment document (because applicants should retain the original of the assignment document). The Office also proposes to insert ''original'' before ''document'' in paragraph (a)(1), as renumbered, in order to make it clear that only a copy of an original assignment document may be submitted for recording.

The Office further proposes to revise paragraph (c) to add paragraph (1) to state that electronic submissions must be attached as a digitized image in Tagged Image File Format (TIFF), to move the existing requirements for paper submissions into paragraph (2), and specify that the document (copy) submitted for recording must have a one-inch margin when printed on 8½ by 11 inch (21.6 by 27.9 cm) or DIN size A4 (21.0 cm by 29.7 cm) paper. Legal-size paper is no longer permitted. See the discussion of this change above for patents (§ 3.24).

Section 3.27: The Office proposes to revise § 3.27 to change ''to be recorded'' to ''submitted for recordation by mail'' because documents and cover sheets submitted for recording may be faxed or electronically submitted to the Office and need not be mailed. The proposed language clarifies that only documents submitted by mail need to be addressed as set forth in the rule. The Office also proposes to revise § 3.27 to delete ''or with a request under § 3.81''. As explained with respect to § 3.81, when an applicant requests a patent to issue to an assignee, the assignment document should be separately submitted for recordation because inclusion of the assignment document with the request to issue the patent to the assignee slows down the recordation process.

Section 3.31: The Office proposes to revise § 3.31(a)(7) to set forth the requirements for signature of patent and trademark cover sheets filed electronically. These requirements correspond to the requirements set forth in §§ 1.4(d)(1)(iii) and 2.33(d) of this chapter for electronically transmitted trademark filings.

Trademark assignments may be submitted electronically with the Electronic Trademark Assignment System, which is available on the USPTO Internet site. *See http://etas.uspto.gov/*. Patent assignments should soon be able to be similarly electronically submitted. When submitting a copy of a trademark assignment using ETAS, the cover sheet is completed and signed electronically. As with electronic submission of a

trademark application, a signature may be applied to an Assignment document in one of the following ways:

(1) The applicant enters a ''symbol'' that the applicant has adopted as a signature on the electronic assignment document. The Office will accept any combination of letters, numbers, spaces and/or punctuation marks as a valid signature if it is placed between forward slash symbols (*e.g.*, ''/qwert!@#/'') and is in a signature block. The document is saved as a TIFF image; or

(2) The signatory signs paper copies of the assignment document in the traditional pen-and-ink manner. The attorney scans the document to create a TIFF image file for electronic submission of the document.

See Trademark Manual of Examining Procedure (TMEP) § 804.05, Signature of Electronically Transmitted Applications (May 2003). Although when filing an assignment electronically, the cover sheet may be ''signed'' as explained in TMEP § 804.05, the assignment document that is included therewith is an attached TIFF image.

The Office further proposes to revise paragraph (c)(1) of § 3.31 to simplify the requirements for the cover sheet to only require identification of whether the document to be recorded relates to a governmental interest.

The Office further proposes to add paragraph (f) of § 3.31, stating that a trademark cover sheet should include the citizenship of the parties conveying and receiving the interest, and that if the party receiving the interest is a partnership or joint venture, the cover sheet should set forth the names, legal entities, and national citizenship (or the state or country of organization) of all general partners or active members. This information is required for purposes of examination of the application or registration file. Providing this information when the assignment is recorded may avoid a subsequent Office action by an examiner.

Section 3.34: The Office proposes to revise § 3.34(b) to delete ''the originally recorded document or'' to thereby provide that it is ''a copy of the document originally submitted for recording'' that must be submitted. As explained above, the Office is revising the procedure for handling assignment documents and will no longer be returning the document that is submitted for recording.

Section 3.41: The Office proposes to revise § 3.41(b)(2) to include electronic and facsimile submission as a means in which a statement of Government interest could be submitted for recordation without incurring a fee. Section 3.41(b)(2) is also proposed to be revised to change the cross-reference to § 3.27 since § 3.27 was previously revised to delete § 3.27(b).

Section 3.81: The Office proposes to revise § 3.81(a) to change ''name(s)'' to ''name'' and ''assignee(s)'' to ''assignee'' because under rules of statutory and regulatory construction, the singular includes the plural unless the context indicates otherwise. Furthermore, the Office proposes to revise § 3.81(a) to change ''should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b)'' to ''must state that the document has been filed for recordation as set forth in § 3.11.'' When an assignment document is submitted for recording, the preferred submission is by facsimile to (703) 306–5995, or through an electronic filing system (*e.g.*, ETAS for trademark assignment documents or EFS for patent assignment documents), and not by mail. Accordingly, the Office proposes to revise the rules to enable patent applicants to state that the assignment documents have been filed for recordation, rather than including the assignment documents for recordation with the request.

Furthermore, the Office proposes to amend § 3.81(a) and (b) to delete the reference to a statement under § 3.73(b). If the application has been assigned, the assignment document should be submitted for recording as set forth in § 3.11 for the patent to issue showing the name of the assignee. Although during prosecution a statement under § 3.73(b) can be relied upon to establish that an assignee is of record, pursuant to § 3.73(b)(1)(i), ''the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records as a condition to permitting the assignee to take action.'' By the time that a patent issues, any assignment should be submitted for recording, and reliance upon § 3.73(b) should not be necessary. Furthermore, although during prosecution of an application the Office will have an opportunity to require recordation, at issuance, prosecution has come to a close and there is no other practical opportunity for the Office to require recordation before the patent is issued.

The Office proposes to revise § 3.81(b) to read ''[a]fter payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request that a patent be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.'' This would modify the practice relating to issuance of a patent to an assignee by requiring that after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, the patent document would not set forth such assignment information, but the assignment information would be set forth in a Certificate of Correction. Furthermore, this would discontinue the current practice of allowing a patent to issue to an assignee when an assignment has not been recorded but a § 3.73(b) statement has been filed. Instead of allowing submission of a § 3.73(b) statement, correction would be permitted via a certificate of correction where the assignment has been recorded, or submitted for recording before issuance of the patent. *See* MPEP § 1481.

Section 3.81(c)(1) is proposed to be amended to change ''assignee(s)'' to ''assignee'' and ''inventor(s)'' to ''inventor'' because under rules of statutory and regulatory construction, the singular includes the plural unless the context indicates otherwise.

Rule Making Considerations

Administrative Procedure Act: This notice proposes changes to the rules of practice to simplify the Office procedures involving power of attorney practice and recording assignment documents. The changes proposed in this notice are limited to the format for and the manner of submitting, establishing and changing the power of attorney, for submitting documents to be recorded in the assignment records, and the availability of assignment records to the public. Therefore, these changes involve rules of agency practice and procedure under 5 U.S.C. 553(b)(A). *See Bachow Communications Inc.* v. *FCC*, 237 F.3d 683, 690 (DC Cir. 2001). Therefore, prior notice and opportunity for public comment are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). Nevertheless, the Office is providing this opportunity for public comment on the changes proposed in this notice because the Office desires the benefit of public comment on these proposed changes.

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), an initial regulatory flexibility analysis under the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. See 5 U.S.C. 603.

Executive Order 13132: This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and previously approved by OMB under OMB control numbers 0651–0027 and 0651–0035. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this notice would not affect the information collection requirements associated with the information collection under OMB control numbers 0651–0027 and 0651–0035.

The title, description and respondent description of each of the information collections are shown below with an estimate of the annual reporting burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The principal impacts of the changes in this proposed rule are to: (1) Provide for power of attorney to a Customer Number and to limit the number of attorneys who may be given a power of attorney without using a Customer Number; (2) eliminate associate power of attorney practice; (3) require attorneys acting in a representative capacity to specify their name and registration number; (4) allow access to assignment records except those relating to any pending or abandoned patent application which is preserved in confidence under § 1.14; (5) provide that assignment documents submitted for recording must be on certain sizes of paper; (6) specifically state that the assignment documents that are submitted for recording will not be returned; (7) for assignments that are submitted electronically, provide for an electronic signature; (8) require the citizenship of the parties conveying and receiving the interest on a trademark assignment cover sheet; and (9) provide that a request to issue a patent to an assignee filed after issue fee payment must be accompanied by a request for a certificate of correction.

OMB Number: 0651–0027.

Title: Changes in Patent and Trademark Assignment Practices.

Form Numbers: PTO–1618 and PTO–1619, PTO/SB/15/41.

Type of Review: Approved through June of 2005.

Affected Public: Individuals or households and businesses or other for-profit institutions.

Estimated Number of Respondents: 311,704.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 155,853 hours.

Needs and Uses: The Office records over 300,000 assignments or documents related to ownership of patent and trademark cases each year. The Office requires a cover sheet to expedite the processing of these documents and to ensure that they are properly recorded.

OMB Number: 0651–0035.

Title: Representative and Address Provisions.

Form Numbers: PTO/SB/81/82/83/121/122/123/124A/124B/125A/125B.

Type of Review: Approved through 11/30/2005.

Affected Public: Individuals or households, business or other for-profit, not for-profit institutions and Federal Government.

Estimated Number of Respondents: 338,280.

Estimated Time Per Response: 3 minutes (0.05 hours) to 1 hour 45 minutes (1.75 hours).

Estimated Total Annual Burden Hours: 31,259 hours.

Needs and Uses: Under 35 U.S.C. 2 and 37 CFR 1.31–1.36 and 1.363, this information is used to submit a request to grant or revoke power of attorney in an application or patent, to withdraw as patent attorney or patent agent of record, or to designate or change the correspondence address for one or more applications or patents.

Comments are invited on: (1) Whether the collections of information are necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313–1450, or to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503, (Attn: USPTO Desk Officer).

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.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

37 CFR Part 3

Administrative practice and procedure, Inventions and patents, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 37 CFR parts 1 and 3 are proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Revise § 1.1(a)(4)(i) to read as follows:

§ 1.1 Addresses for correspondence with the United States Patent and Trademark Office.

(a) * * *

(4) *Office of Public Records correspondence*—(i) *Assignments.* All patent-related or trademark-related documents to be recorded by Assignment Services Division, except for documents filed together with a new application, should be addressed to: Mail Stop Assignment Recordation Services, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450. See § 3.27.

* * * * *

3. Revise § 1.12(b) to read as follows:

§ 1.12 Assignment records open to public inspection.

* * * * *

(b) Assignment records, digests, and indexes relating to any pending or abandoned patent application, which is open to the public pursuant to § 1.11 or for which copies or access may be supplied pursuant to § 1.14, are

available to the public. Copies of any such assignment records and related information that are not available to the public shall be obtainable only upon written authority of the applicant or applicant's assignee or patent attorney or patent agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided in this part.

* * * * *

4. Revise § 1.31 to read as follows:

§ 1.31 Applicants may be represented by a registered patent attorney or patent agent.

An applicant for patent may file and prosecute his or her own case, or he or she may give a power of attorney so as to be represented by a registered patent attorney, registered patent agent, or other individual authorized to practice before the United States Patent and Trademark Office in patent cases. See § 10.6 and § 10.9(a) and (b) of this subchapter. The United States Patent and Trademark Office cannot aid in the selection of a registered patent attorney or patent agent.

5. Add new § 1.32 to read as follows:

§ 1.32 Power of attorney.

(a) Definitions:

(1) *Power of attorney* means a written document by which a principal designates an agent to act on his or her behalf.

(2) *Principal* means either the applicant for patent (§ 1.41(b)) or the assignee of the entire interest. The principal executes a power of attorney designating one or more agents to act on his or her behalf.

(3) *Revocation* means the cancellation by the principal of the authority previously given by the principal to an agent.

(4) *Customer Number* means a number that may be used to:

(i) Designate the correspondence address of a patent application such that the correspondence address for the patent application would be the address associated with the Customer Number;

(ii) Designate the fee address (§ 1.363) of a patent by a Customer Number such that the fee address for the patent would be the address associated with the Customer Number; and

(iii) Submit a list of practitioners by Customer Number such that those registered patent practitioners associated with the Customer Number would have power of attorney.

(b) A power of attorney, other than a power of attorney in an international application (§ 1.455), must:

(1) Be in writing;

(2) Name as agent either:

(i) One or more joint inventors (§ 1.45);

(ii) Up to ten registered patent attorneys, registered patent agents, or other individuals authorized to practice before the United States Patent and Trademark Office in patent cases (see § 10.6 and § 10.9(a) and (b) of this subchapter); or

(iii) Those registered patent practitioners associated with a Customer Number;

(3) Give the agent power to act on behalf of the principal; and

(4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest.

6. Amend § 1.33 to revise paragraphs (a), introductory text, (b)(1), (b)(2) and (c) to read as follows:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified, in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if the address associated with a Customer Number is one of the addresses given. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:

(1) * * *

(b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

* * * * *

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the patent attorney or patent agent of record (see § 1.32(b)) in the patent file at the address listed on the register of patent attorneys and patent agents maintained pursuant to § 10.5 and § 10.11 or, if no patent attorney or patent agent is of record, to the patent owner or owners at the address or addresses of record. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by a patent attorney or patent agent of record in the patent file, or by a registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's patent attorney or patent agent, or with more than one patent attorney or patent agent, will not be undertaken. If more than one patent attorney or patent agent is of record and a correspondence address has not been specified, correspondence will be held with the last patent attorney or patent agent made of record.

* * * * *

7. Revise § 1.34 to read as follows:

§ 1.34 Acting in a Representative Capacity.

When a registered patent attorney or patent agent acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party in whose behalf he or she acts. In filing such a paper, the registered patent attorney or patent agent must specify his or her registration number with his or her signature. Further proof of authority to act in a representative capacity may be required.

8. Revise § 1.36 to read as follows:

§ 1.36 Revocation of power of attorney; withdrawal of patent attorney or patent agent.

(a) A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceedings of a case by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest. A registered patent attorney or patent agent will be notified of the revocation of the power of attorney. Where power of attorney is given to the patent practitioners associated with a Customer Number (§ 1.32(b)(2)(iii)), the practitioners so appointed will also be notified of the revocation of the power of attorney when the power of attorney to the practitioners associated with the Customer Number is revoked. The notice of revocation will be mailed to the correspondence address for the application (§ 1.33) in effect before the revocation. An assignment will not of itself operate as a revocation of a power previously given, but the assignee of the entire interest may revoke previous powers and give another power of attorney as provided in § 1.32(b) of the assignee's own selection.

(b) A registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw upon application to and approval by the Director. The applicant or patent owner will be notified of the withdrawal of the registered patent attorney or patent agent. Where power of attorney is given to the patent practitioners associated with a Customer Number, a request to delete all of the patent practitioners associated with the Customer Number may not be granted if an applicant has given power of attorney to the patent practitioners associated with the Customer Number and insufficient time remains for the applicant to file a reply. See § 1.613(d) for withdrawal in an interference.

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

9. The authority citation for 37 CFR part 3 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 2(b)(2).

10. Revise § 3.1 to read as follows:

§ 3.1 Definitions.

For purposes of this part, the following definitions shall apply:

Application means a national application for patent, an international patent application that designates the United States of America, or an application to register a trademark under section 1 or 44 of the Trademark Act, 15 U.S.C. 1051 or 15 U.S.C. 1126, unless otherwise indicated.

Assignment means a transfer by a party of all or part of its right, title and interest in a patent, patent application, registered mark or a mark for which an application to register has been filed.

Document means a document which a party requests to be recorded in the Office pursuant to § 3.11 and which affects some interest in an application, patent, or registration.

Office means the United States Patent and Trademark Office.

Recorded document means a document which has been recorded in the Office pursuant to § 3.11.

Registration means a trademark registration issued by the Office.

11. Add § 3.12 to read as follows:

§ 3.12 Documents affecting title to international trademark registration and extension of protection to the United States.

(a) Assignments or restrictions of a holder's right to dispose of an international trademark registration must be recorded by the International Bureau of the World Intellectual Property Organization.

(b) When the Office is notified by the International Bureau of an assignment or restriction of a holder's right of disposal of an international registration with an extension of protection to the United States, the Office will take note of the assignment or restriction in its records.

12. Revise § 3.24 to read as follows:

§ 3.24 Requirements for documents and cover sheets relating to patents and patent applications.

(a) *For electronic submissions:* Either a true copy of the original document or an extract of the original document may be submitted for recording. All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), the document must be legible and a 2.5 cm (one-inch) margin must be present on all sides.

(b) *For paper or facsimile submissions*: Either a legible true copy of the original document or a legible extract of the original document may be submitted for recording.

Only one side of each page may be used. The paper size must be either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), and in either case, a 2.5 cm (one-inch) margin must be present on all sides. For paper submissions, the paper used should be flexible, strong white, non-shiny, and durable. The Office will not return recorded documents, so original documents must not be submitted for recording.

13. Revise § 3.25 to read as follows:

§ 3.25 Recording requirements for trademark applications and registrations.

(a) *Documents affecting title*. To record documents affecting title to a trademark application or registration, a legible cover sheet (see § 3.31) and one of the following must be submitted:

(1) A copy of the original document;

(2) A copy of an extract from the document evidencing the effect on title; or

(3) A statement signed by both the party conveying the interest and the party receiving the interest explaining how the conveyance affects title.

(b) *Name changes*. Only a legible cover sheet is required (See § 3.31).

(c) *All documents*.

(1) *For electronic submissions*: All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), a 2.5 cm (one-inch) margin must be present on all sides.

(2) *For paper or facsimile submissions*: All documents should be submitted on white and non-shiny paper that is either 8½ by 11 inches (21.6 by 27.9 cm) or DIN size A4 (21.0 by 29.7 cm) with a one-inch (2.5 cm) margin on all sides in either case. Only one side of each page may be used. The Office will not return recorded documents, so original documents should not be submitted for recording.

14. Revise § 3.27 to read as follows:

§ 3.27 Mailing address for submitting documents to be recorded.

Documents and cover sheets submitted by mail for recordation should be addressed to Mail Stop Assignment Recordation Services, Director of the United States Patent and Trademark Office, PO Box 1450, Alexandria, Virginia 22313–1450, unless they are filed together with new applications.

15. Amend § 3.31 to revise paragraphs (a)(7) and (c)(1) and to add a paragraph (f) to read as follows:

§ 3.31 Cover sheet content.

(a) * * *

(7) The signature of the party submitting the document. For an assignment document or name change filed electronically, the person who signs the cover sheet must either:

(i) Place a symbol comprised of numbers and/or letters between forward

slash marks in the signature block on the electronic submission; or

(ii) Sign the cover sheet using some other form of electronic signature specified by the Director.

* * * * *

(c) * * *

(1) Indicate that the document relates to a Government interest; and

* * * * *

(f) Each trademark cover sheet should include the citizenship of the party conveying the interest and the citizenship of the party receiving the interest. In addition, if the party receiving the interest is a partnership or joint venture, the cover sheet should set forth the names, legal entities, and national citizenship (or the state or country of organization) of all general partners or active members that compose the partnership or joint venture.

16. Revise § 3.34 to read as follows:

§ 3.34 Correction of cover sheet errors.

(a) An error in a cover sheet recorded pursuant to § 3.11 will be corrected only if:

(1) The error is apparent when the cover sheet is compared with the recorded document to which it pertains, and

(2) A corrected cover sheet is filed for recordation.

(b) The corrected cover sheet must be accompanied by a copy of the document originally submitted for recording and by the recording fee as set forth in § 3.41.

17. Revise § 3.41(b)(2) to read as follows:

§ 3.41 Recording fees.

* * * * *

(b) * * *

(2) The document and cover sheet are either: faxed or electronically submitted as prescribed by the Director, or mailed to the Office in compliance with § 3.27.

18. Revise § 3.81 to read as follows:

§ 3.81 Issue of patent to assignee.

(a) *With payment of the issue fee:* An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in § 3.11.

(b) *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

(c) *Partial assignees.*

(1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.

(2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees.

Dated: June 20, 2003.

Jon W. Dudas,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 03–16262 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 207–4211; FRL–7518–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Inspection and Maintenance Program—Revised Final Standards for the Acceleration Simulation Mode Exhaust Emissions Test

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This SIP revision amends the Commonwealth's SIP-approved Enhanced Vehicle Emission Inspection Program (or I/M program) to implement final tailpipe test standards for the Acceleration Simulation Mode (ASM) tailpipe emissions test. This is being done through the substitution of revised ASM test standards in place of the previously SIP-approved final standards. Since this change affects only testing performed using the ASM tailpipe test method, only that portion of the I/M-subject vehicles in the five-county Philadelphia area that receive ASM tailpipe testing are affected by this action. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before July 28, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *morris.makeba@epa.gov* or to *http://www.regulations.gov.,* which is an alternative method for submitting electronic comments to EPA. Follow the detailed instructions of the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by e-mail at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 5, 2003, the Pennsylvania Department of Environmental Protection submitted a request that EPA parallel process the approval of a revision to its State Implementation Plan (SIP) to amend its SIP-approved enhanced inspection and maintenance (I/M) program. The revision consists of a change of the Commonwealth's I/M program regulation to implement a revised set of final pass/fail testing standards for those vehicles that undergo Acceleration Simulation Mode (ASM) tailpipe test method. The Commonwealth is replacing final ASM test standards previously adopted and SIP-approved with a set of revised final standards issued by EPA that are being adopted by Pennsylvania as a compliance alternative to the previous final ASM standards.

The ASM test is a test method used to measure tailpipe emissions from cars. In Pennsylvania, the test is performed only in five counties in the Philadelphia severe ozone nonattainment area (Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties), and therefore only on a portion of the I/M-subject fleet. The ASM tailpipe

emissions test employs tailpipe emissions sensing equipment that measures emissions while the vehicle is driven, under load, at a steady speed on a chassis dynamometer. An emissions gas analyzer measures tailpipe emissions for certain pollutants. Specifically, the result is a concentration measurement for each of three pollutants—expressed in units of parts per million (ppm) of pollutant of hydrocarbons and oxides of nitrogen, and percent concentration of carbon monoxide. The results for each pollutant are compared against a standard, or cutpoint, that represents the maximum allowable amount of each pollutant that may be emitted, and a pass or fail determination is made based upon comparison of the test result to the cutpoint. Repairs would then be required to failing vehicles in an attempt to reduce the measured tailpipe pollutants to within acceptable limits. The ASM testing cutpoints vary depending upon vehicle type (*i.e.*, car or truck), model year of manufacture, and vehicle weight—to represent the different standards with which different types of vehicles were manufactured to comply. In general, older vehicles must comply with less stringent test standards than newer vehicles, and heavier vehicles comply with less stringent test standards than lighter vehicles.

At the inception of the enhanced I/M program, EPA allowed states to employ a less stringent set of interim, or phase-in, ASM cutpoints in order to make a pass/fail determination, eventually requiring the state to implement more stringent final ASM test cutpoints for the duration of the program.

During the period when states were conducting ASM testing using the phase-in cutpoints, several states raised concerns to EPA that application of the final ASM cutpoints could result in an overly high level of failures, potentially failing some cars that marginally fail or that should not fail the test (*i.e.*, false failures). EPA investigated the matter using I/M program data provided by several states, and as a result, EPA developed and released an alternative final set of ASM cutpoints to address the problem via an August 16, 2002 memorandum entitled ''Revised Final Cutpoints for ASM5015 and ASM 252'' to EPA's Regional Air Division Directors from Gregory Green, Director of the Certification and Compliance Division of EPA's Office of Transportation and Air Quality. These alternative cutpoints can be used by states as an optional means to comply with Federal I/M requirements for ASM I/M testing final cutpoints.

The alternative EPA final cutpoints were developed using a methodology that adjusts emissions on the basis of engine displacement rather than vehicle test weight. To apply the alternative ASM cutpoints, the tested vehicle's engine displacement (in liter units) is multiplied by the concentration of the exhaust pollutant (hydrocarbon, carbon monoxide, or oxides of nitrogen, in units of either ppm HC or NO_X or % CO). The resultant value (in units of liters displacement*concentration) is compared to an EPA-generated table of cutpoints. If the test result exceeds the allowable cutpoint for any tested pollutant, the vehicle fails the ASM test for that pollutant. If the test results are lower than the allowable cutpoints for all tested pollutants, then the vehicle passes the ASM test.

EPA's policy provides states who elect to use the recently released alternative final ASM cutpoints the same level of emissions benefits, or credits, that would have been achieved by use of the previously available final cutpoints. Therefore, Pennsylvania was not required to perform a new analysis to determine potential changes in emissions benefits, as claimed in a SIP or other plan, from an ASM-based I/M program using final ASM cutpoints.

II. Summary of SIP Revision

The SIP revision consists of amendments to Pennsylvania's enhanced I/M program regulation, codified in Title 67 of the Pennsylvania Code, Part I, Subpart A, Article VII, Chapter 177, Subchapter A. Specifically, Section 1 of Appendix A (which contains procedures, standards, equipment specifications, and quality control specifications for the enhanced I/M program) is being revised. Specifically, the regulatory change replaces the previously adopted final ASM cutpoints that are based upon vehicle weight with EPA's alternative final cutpoints that are based upon engine displacement (released by EPA in an August 16, 2002 memorandum).

Pennsylvania is also amending the deadline for implementation of final ASM test cutpoints in the five counties in Southeast Pennsylvania comprising the Philadelphia I/M program area. The Commonwealth's proposed SIP stipulates that the final cutpoints will apply upon notice by the Department of Transportation. However, the Commonwealth is under court order by the United States District Court for the Eastern District of Pennsylvania in the case of *Clean Air Council* v. *Mallory and Seif,* No. 01–179 to fully implement either the original or the alternative final ASM cutpoints by September 1, 2003. There are three compelling reasons for EPA to approve the proposed time frame for final ASM cutpoint implementation: (1) The SIP deadline that is being removed from the SIP has past and can no longer be met; (2) the Commonwealth is moving as expeditiously as possible to adopt the new EPA alternative ASM cutpoints; and (3) the Federal court order compels the Commonwealth to implement final cutpoints on an expedited schedule that is as ambitious as can reasonably be expected. Therefore, EPA believes that the Commonwealth's SIP revision, in conjunction with a Federal court order, will provide for implementation of final ASM cutpoints by September 1, 2003.

Specific details of the final cutpoints being adopted by Pennsylvania are available for review in the technical support document (TSD) prepared by EPA for this action and in the proposed SIP materials submitted by Pennsylvania, both of which are contained in the docket for this rulemaking action. These materials are available for inspection at the locations listed in the **ADDRESSES** section of this rulemaking action. A copy of the TSD is also available, upon request, by contacting Brian Rehn at (215) 814–2176, or by e-mail at *rehn.brian@epa.gov.*

III. Proposed Action

EPA proposing to approve Pennsylvania's SIP revision for ASM test standards under the enhanced I/M program in Southeast Pennsylvania, which was submitted on June 5, 2003. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting either electronic or written comments. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number **[writer: insert AIRTRAX No.]** 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.

1. *Electronically.* If you submit an electronic comment as prescribed below, 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. *E-mail.* Comments may be sent by electronic mail (e-mail) to: *morris.makeba@epa.gov,* attention: **[writer: insert AIRTRAX No.].** EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, 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.

ii. *Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at *http://www.regulations.gov,* then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. 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.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

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

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 17, 2003.

Richard J. Kampf,

Acting Regional Administrator, Region III.

[FR Doc. 03–16237 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA087–5057b; FRL–7519–1]

Approval and Promulgation of Air Quality Implementation Plans and Approval Under Section 112(l) of the Clean Air Act; Virginia; State Operating Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the Commonwealth of Virginia State Implementation Plan

(SIP). The revision consists of Virginia's state operating permit program. EPA is proposing to approve this revision in accordance with the requirements of sections 110 and 112 of Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by July 28, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Mr. David Campbell, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *campbell.dave@epa.gov* or to *http://www.regulations.gov*, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions listed in the **SUPPLEMENTARY INFORMATION** section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 814–2196, or by e-mail at *campbell.dave@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number VA087–5057 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.

1. *Electronically.* If you submit an electronic comment as prescribed below, 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. *E-mail.* Comments may be sent by electronic mail (e-mail) to *campbell.dave@epa.gov*, attention VA087–5057. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, 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.

ii. *Regulations.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to *http://www.regulations.gov*, then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. 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.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

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.

Dated: June 17, 2003.

Richard J. Kampf,

Acting Regional Administrator, Region III.

[FR Doc. 03–16234 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Chapter IV

[CMS–6012–N6]

RIN 0938–AL13

Medicare Program; Negotiated Rulemaking Committee on Special Payment Provisions and Requirements for Prosthetics and Certain Custom-Fabricated Orthotics; Meeting Announcement

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

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces an additional public meeting of the Negotiated Rulemaking Committee on Special Payment Provisions and Requirements for Prosthetics and Certain Custom-Fabricated Orthotics. The Committee was mandated by section 427 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA).

DATES: The final negotiated rulemaking committee meeting will be held July 14, 2003 from 8 a.m. to 5:30 p.m. e.s.t.

This meeting is open to the public. If the Committee decides to hold another meeting, that meeting will be announced in the **Federal Register**.

ADDRESSES: The Committee meeting will be held in the multipurpose room

at the Centers for Medicare and Medicaid Services, 7500 Security Blvd., Baltimore, Maryland 21244.

Meeting Registration: Because this meeting will be located on Federal property, for security reasons, all individuals must register to attend. Any persons wishing to attend this meeting must e-mail *TLinkowich@CMS.HHS.Gov* or call Theresa Linkowich at (410) 786–9249 to register by close of business on July 10, 2003. Attendees must show valid photographic identification to the Federal Protective Service or Guard Service personnel before they will be permitted to enter the building. Individuals who have not registered in advance will not be allowed to enter the building to attend the meeting. Seating capacity is limited to the first 250 registrants.

FOR FURTHER INFORMATION CONTACT: Theresa Linkowich, (410) 786–9249 (General inquiries concerning prosthetics and custom-fabricated orthotics), Centers for Medicare & Medicaid Services (CMS), 7500 Security Blvd, Baltimore MD 21244; or

Lynn Sylvester, 202–606–9140, Federal Mediation and Conciliation Services, 2100 K Street, NW., Washington, DC 20427; or Ira Lobel, 518–431–0130, Federal Mediation and Conciliation Services, 1 Clinton Square, Room 952, Albany, NY 12207

SUPPLEMENTARY INFORMATION: We published a notice in the **Federal Register** on July 26, 2002 (67 FR 48839–48840) announcing the establishment of the negotiated rulemaking committee to advise us on developing a proposed rule that would establish special payment provisions and requirements for suppliers of prosthetics and certain custom-fabricated orthotics under the Medicare program. The notice also announced dates for the Committee's first two meetings on October 1–3, 2002 and October 29–31, 2002. Subsequent meetings were announced in the **Federal Register** at 67 FR 70358 (November 22, 2002), 68 FR 3482 (January 24, 2003), and 68 FR 15139 (March 28, 2003).

Through face-to-face negotiations, the Committee hopes to reach consensus on the substance of the proposed rule. If consensus is reached, the Committee will transmit to us a report containing required information for developing a proposed rule and we will use the report as the basis for the proposed rule. The Committee is responsible for identifying the key issues, gauging their importance, analyzing the information necessary to resolve the issues, arriving at a consensus, and recommending the text and content of the proposed regulation. Detailed information is available on the CMS Internet Home Page: *http://cms.hhs.gov/faca/prosthetic/* or by calling the Federal Advisory Committee Hotline at (410) 786–9379. Out-of-town callers can reach the Hotline by calling toll free at 1–877–449–5659.

The Agenda for the July 14 meeting will be as follows:

1. Review of the June 2 and 3 minutes.
2. Final discussion of statutory terms to be further defined by regulation.
3. Final discussion on L codes.
4. Final discussion on qualifications as defined in the statute.
5. Draft, revise, and sign the Committee's report containing the negotiated provisions of the proposed rule.

Public Participation

All interested parties are invited to attend these public meetings, but attendance is limited to the space available. Advance registration is required. Seating will be available on a first-come first'served basis. Individuals requiring sign language interpretation for the hearing impaired or other special accommodations should contact Theresa Linkowich, *tlinkowich@cms.hhs.gov* or call (410) 786–9249 at least 10 days before the meeting. The Committee has the authority to decide to what extent oral presentations by members of the public may be permitted at the meeting. Oral presentations will be limited to statements of fact and views, and shall not include any questioning of the Committee members or other participants unless the facilitators have specifically approved these questions. The number of oral presentations may be limited by the time available.

Interested parties can file statements with the Committee. Mail written statements to the following address: Federal Mediation and Conciliation Services, 2100 K Street, NW., Washington, DC 20427, Attention: Lynn Sylvester, or call Lynn Sylvester at (202) 606–9140.

Additional Meetings

The Committee does not anticipate the need for additional meetings. If additional meetings are necessary, we will publish notice(s) of the future meetings in the **Federal Register**. All future meetings will be open to the public.

Authority: Federal Advisory Committee Act (5 U.S.C. App. 2)

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

Dated: June 19, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 03–16053 Filed 6–26–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–D–7568]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, P.E., FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2831.

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

These proposed base flood and modified base flood elevations, together

with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

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

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

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

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

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
ILLINOIS DuPage County				
Des Plaines River	At southern County boundary along Chicago Sanitary Canal.	None	*594	DuPage County (Unincorporated Areas), Village of Lemont
	At southern County boundary along Chicago Sanitary Canal.	None	*595	
West Branch Tributary No. 4.	Approximately 600 feet upstream of Timber Lane	None	*744	Village of Carol Stream
	Approximately 925 feet upstream of Timber Lane	None	*744	
East Branch Tributary No. 2	Approximately 50 feet upstream of the confluence with East Branch DuPage River.	*693	*694	DuPage County (Unincorporated Areas), Village of Glendale Heights
	Approximately 1,400 feet upstream of Main Street.	None	*723	
Ginger Creek	At confluence with Salt Creek	*656	*655	DuPage County (Unincorporated Areas), Village of Oak Brook
	Approximately 1,000 feet upstream of Myers Road.	*700	*699	
Mays Lake Tributary	Approximately 1,350 feet upstream of confluence with Ginger Creek.	*670	*672	Village of Oak Brook
	Approximately 1,565 feet upstream of Mayslake Culvert.	None	*718	
Briarwood Ditch	Approximately 1,200 feet upstream of confluence with Ginger Creek.	*670	*671	Village of Oak Brook
	Approximately 500 feet upstream of Kingston Road.	*670	*672	
Midwest Club Tributary	At confluence with Ginger Creek	*699	*696	DuPage County (Unincorporated Areas), Village of Oak Brook
	Approximately 550 feet upstream of Oak Brook Road.	None	*702	
Lombard Tributary	Approximately 500 feet upstream of confluence with Ginger.	*700	*701	Village of Oak Brook
	Approximately 670 feet upstream of Royal Valley Drive.	*700	*703	
Heritage Oaks Tributary	At the confluence with Ginger Creek	*700	*699	Village of Oak Brook
	Approximately 750 feet upstream of Ginger Creek.	*700	*699	

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
Salt Creek	Approximately 100 feet upstream of York Road	*646	*645	Village of Oak Brook, City of Oak Brook Terrace
	Just downstream of Roosevelt Road	*663	*661	
Midwest Club Tributary Ponding Area.	Approximately 50 feet Area southwest of the intersection of CT 20 and Midwest Club Parkway.	None	*702	Village of Oak Brook

DuPage County (Unincorporated Areas)

Maps available for inspection at the DuPage County Department of Development and Environmental Concerns, 2nd floor, 421 North County Farm Road, Wheaton, Illinois.

Send comments to Mr. William Brown, Senior Project Engineer, DuPage County Department of Development and Environmental Concerns, 2nd floor, 421 North County Farm Road, Wheaton, Illinois 60187.

Village of Carol Stream

Maps available for inspection at the DuPage County Department of Development and Environmental Concerns, 2nd floor, 421 North County Farm Road, Wheaton, Illinois.

Send comments to the Honorable Ross Ferraro, Mayor of the Village of Carol Stream, 500 North Gary Avenue, Carol Stream, Illinois 690188–1899.

Village of Glendale Heights

Maps available for inspection at the DuPage County Department of Development and Environmental Concerns, 2nd floor, 421 North County Farm Road, Wheaton, Illinois.

Send comments to Ms. Linda Jackson, Glendale Heights Village President, 300 Civic Center Plaza, Glendale Heights, Illinois 60139.

Village of Oak Brook

Maps available for inspection at the DuPage County Department of Development and Environmental Concerns, 2nd floor, 421 North County Farm Road, Wheaton, Illinois.

Send comments to Ms. Karen Bushy, Oak Brook Village President, 1200 Oak Brook Road, Oak Brook, Illinois 60523.

City of Oakbrook Terrace

Maps available for inspection at the DuPage County Department of Development and Environmental Concerns, 2nd floor, 421 North County Farm Road, Wheaton, Illinois.

Send comments to the Honorable Thomas S. Mazaika, Mayor of the City of Oakbrook Terrace, 17W275 Butterfield Road, Oakbrook Terrace, Illinois 60181.

Village of Lemont

Maps available for inspection at the DuPage County Department of Development and Environmental Concerns, 2nd floor, 421 North County Farm Road, Wheaton, Illinois.

Send comments to the Honorable John F. Piazza, Mayor of the Village of Lemont, 418 Main Street, Lemont, Illinois 60439.

NORTH CAROLINA
Mecklenburg County

Back Creek	Approximately 125 feet downstream of the confluence of Back Creek Tributary.	•615	•614	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.7 mile upstream of W.T. Harris Boulevard.	None	•714	
Back Creek Tributary	At the confluence with Back Creek	•616	•617	Mecklenburg County (Unincorporated Areas)
	Approximately 250 feet upstream of Back Creek Church Road.	None	•695	
Beaverdam Creek	At the confluence with Lake Wylie	•569	•571	Mecklenburg County (Unincorporated Areas)
	Approximately 2 miles upstream of Dixie River Road.	None	•639	
Beaverdam Creek Tributary	At the confluence with Beaverdam Creek	•578	•576	Mecklenburg County (Unincorporated Areas)
	Approximately 1.2 miles upstream of the confluence with Beaverdam Creek.	None	•603	
Tributary 1	At the confluence with Beaverdam Creek	•572	•574	Mecklenburg County (Unincorporated Areas)
	Approximately 0.3 mile upstream of the confluence with Beaverdam Creek.	None	•580	
Blankmanship Branch	At the South Carolina State boundary	•610	•616	Mecklenburg County (Unincorporated Areas)
	Approximately 50 feet upstream of Steele Creek Road.	None	•636	
Briar Creek	At the confluence with Little Sugar Creek	•591	•593	City of Charlotte
	Approximately 500 feet upstream of Plaza Road	None	•708	
Tributary 1	At the confluence with Briar Creek	•596	•594	City of Charlotte
	Approximately 400 feet upstream of Colony Road	None	•618	
Tributary 2	At the confluence with Briar Creek	•688	•692	City of Charlotte
	Approximately 530 feet upstream of Galway Drive Creek.	None	•707	

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
Caldwell Creek	At the Cabarrus County Line	•624	•623	Mecklenburg County (Unincorporated Areas)
	Approximately 0.9 mile upstream of Cabarrus County Line.	None	•664	
Caldwell Station	At the confluence with McDowell Creek	•702	•699	Town of Huntersville, Mecklenburg County (Unincorporated Areas)
	Approximately 0.4 mile upstream of Statesville Road.	None	•719	
Campbell Creek	At the confluence with McAlpine Creek	•589	•592	City of Charlotte
	Approximately 0.4 mile upstream of Statesville Road.	None	•715	
Cane Creek	At the confluence with South Prong Clarke Creek	•650	•651	Town of Huntersville, Mecklenburg County (Unincorporated Areas)
	Approximately 2.2 miles upstream of the confluence with South Prong Clark Creek.	None	•700	
Catawba River	Approximately 1.8 miles upstream of York County/South Carolina boundary.	•571	•570	Mecklenburg County (Unincorporated Areas)
	At Cowans Ford Dam	None	•670	
Tributary 1	At the confluence with Catawba River	•568	•574	Mecklenburg County (Unincorporated Areas)
	Approximately 1.1 miles upstream of the confluence with the Catawba River.	None	•600	
Tributary 2	Approximately 0.6 mile upstream of the confluence of Catawba River.	•579	•578	Mecklenburg County (Unincorporated Areas)
	Approximately 0.7 mile upstream of Hardwood Lane.	•635	•634	
Tributary 3	At the confluence with Catawba River	None	•664	Mecklenburg County (Unincorporated Areas)
	Approximately 75 feet upstream of Cashion Road	None	•691	
Clarke Creek	Approximately 1,680 feet downstream of the confluence of Ramah Creek.	None	•630	Mecklenburg County (Unincorporated Areas)
	At the confluence of South Prong Clarke Creek/North Prong Clarke Creek.	•636	•637	
Tributary	Approximately 0.4 mile downstream of Highland Creek Parkway.	•631	•630	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 1.1 miles upstream of Highland Creek Parkway.	None	•708	
Clarks Creek	At the confluence of Mallard Creek	•629	•631	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 530 feet upstream of Dearmon Road.	None	•739	
Tributary 1	At the confluence with Clarks Creek	•714	•710	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Hucks Road	•742	•741	
Tributary 1A	At the confluence with Clarks Creek Tributary 1	•726	•727	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 1,900 feet upstream of Davis Lake Parkway.	None	•780	
Clear Creek	At County boundary	None	•535	Town of Mint Hill, Mecklenburg County (Unincorporated Areas)
	Approximately 1.0 mile upstream of the confluence of Clear Creek Tributary.	None	•661	
Tributary	Approximately 400 feet upstream of the confluence with Clear Creek.	•622	•624	Town of Mint Hill, Mecklenburg County (Unincorporated Areas)
	Approximately 1,650 feet upstream of the Truelight Church Road.	•684	•683	
Clems Branch	At the Lancaster County boundary	•563	•567	Mecklenburg County (Unincorporated Areas)
	Approximately 150 feet upstream of Lancaster Highway.	None	•588	

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
Coffey Creek	At the confluence with Sugar Creek	•571	•575	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.7 mile upstream of West Boulevard.	•662	•663	
Dairy Branch	Approximately 250 feet upstream of confluence with Little Sugar Creek.	•620	•622	City of Charlotte
	Approximately 170 feet upstream of Scott Avenue.	None	•657	
Derita Branch	At confluence with Little Sugar Creek	•692	•690	City of Charlotte
	Approximately 0.6 mile upstream of West Craighead Road.	None	•729	
Dixon Branch	At the confluence with Long Creek	•710	•711	Mecklenburg County (Unincorporated Areas)
	Approximately 1,450 feet upstream of the confluence of Dixon Branch Tributary.	•732	•731	
Tributary	At the confluence with Dixon Branch	•728	•725	Mecklenburg County (Unincorporated Areas)
	Approximately 0.27 mile upstream of Statesville Road.	•751	•749	
Doby Creek	At the confluence with Mallard Creek	•605	•610	City of Charlotte
	Approximately 1.4 miles upstream of Governors Village Middle School.	None	•708	
Tributary	At the confluence with Doby Creek	•611	•612	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 640 feet upstream of IBM Drive	None	•655	
Duck Creek	At the County boundary	•574	•575	Mecklenburg County (Unincorporated Areas)
	Approximately 1.0 mile upstream of County boundary.	None	•607	
Edwards Branch	At the confluence with Briar Creek	•651	•656	City of Charlotte
	Approximately 400 feet upstream of Sheffield Drive.	None	•700	
Ferrelltown Creek	At the confluence with Clarke Creek	•634	•633	Mecklenburg County (Unincorporated Areas)
	Approximately 1.4 miles upstream of the confluence with Clarke Creek.	•669	•666	
Flat Branch	At the confluence with Sixmile Creek	•584	•589	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.8 mile upstream of Tom Short Road.	None	•640	
Fourmile Creek	At the confluence with McAlpine Creek	•538	•541	City of Charlotte, Town of Matthews, Mecklenburg County (Unincorporated Areas)
	At downstream side of E. John Street	•668	•666	
Gar Creek	Approximately 1,250 feet downstream of Beatties Ford Road.	•665	•664	Mecklenburg County (Unincorporated Areas)
	Approximately 1,300 feet upstream of Kerns Road.	•711	•709	
Goose Creek	At the County boundary	•624	•627	Town of Mint Hill, Mecklenburg County (Unincorporated Areas)
	Approximately 1.2 miles upstream of Lawyers Road.	•675	•682	
Gum Branch	At the confluence with Long Creek	•639	•641	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 350 feet upstream of Old Plank Road.	None	•712	
Gutter Branch	At the confluence with Long Creek	•652	•649	Mecklenburg County (Unincorporated Areas)
	Approximately 0.9 mile upstream of Oakdale Road.	None	•721	
Irvins Creek	At the confluence with McAlpine Creek	•581	•584	City of Charlotte, Town of Mint Hill, Town of Matthews, Mecklenburg County (Unincorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	Approximately 350 feet upstream of Lawyers Road.	None	•709	
Tributary 1	At the confluence with Irvins Creek	•591	•587	City of Charlotte, Town of Matthews
	Approximately 800 feet upstream of Windsor Park bridge.	•667	•671	
Tributary 2	At the confluence with Irvins Creek	•668	•670	Town of Mint Hill
	Approximately 0.6 mile upstream of Lawyers Road.	•701	•700	
Irwin Creek	At the confluence with Sugar Creek	•602	•607	City of Charlotte
	Approximately 0.9 mile upstream of Nevin Road	None	•739	
Tributary 1	At the confluence with Irwin Creek	•612	•615	City of Charlotte
	Approximately 0.6 mile upstream of Fieldcrest Road.	None	•647	
Kennedy Branch	At the confluence with Irwin Creek	•669	•665	City of Charlotte
	Approximately 180 feet upstream of Slater Road	None	•731	
Kings Branch	At the confluence with Sugar Creek	•551	•552	City of Charlotte
	Approximately 150 feet upstream of Interstate 77	•639	•631	
Little Hope Creek	Approximately 400 feet upstream of the confluence with Little Sugar Creek.	•590	•593	City of Charlotte
	Approximately 200 feet upstream of Woodlawn Road.	•622	•627	
Little Hope Creek Tributary	At the confluence with Little Hope Creek	•614	•615	City of Charlotte
	Approximately 260 feet upstream of Bradbury Drive.	None	•623	
Little Paw Creek	Approximately 1,300 feet upstream of the confluence with Lake Wylie.	•575	•573	Mecklenburg County (Unincorporated Areas)
	Approximately 0.8 mile upstream of Mt. Olive Church Road.	None	•655	
Little Sugar Creek	At the North Carolina/South Carolina State Border.	•537	•538	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 750 feet upstream of Kentbrook Drive.	None	•720	
Long Creek	At the confluence with Catawba River	•572	•578	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.46 mile upstream of Statesville Road.	•756	•754	
Tributary 1	At the confluence with Long Creek	•577	•589	Mecklenburg County (Unincorporated Areas)
	Approximately 0.6 mile upstream of confluence with Long Creek.	None	•589	
Tributary 2	At the confluence with Long Creek	•629	•628	City of Charlotte
	Approximately 1,950 feet upstream of the confluence with Long Creek.	•649	•652	
Tributary 3	At the confluence with Long Creek	•638	•639	City of Charlotte
	Approximately 0.5 mile upstream of Gum Branch Road.	None	•639	
Mallard Creek	Approximately 2.6 miles downstream of Pavilion Drive.	•574	•578	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 450 feet upstream of Old Potters Road.	None	•733	
Tributary	At the confluence with Mallard Creek	•672	•673	City of Charlotte
	Approximately 1,500 feet upstream of Hubbard Road.	None	•683	
McAlpine Creek	At the State boundary	•525	•527	City of Charlotte, Mecklenburg County (Unincorporated Areas)/Town of Mint Hill
	Approximately 0.5 mile upstream of Marlwood Circle.	•693	•690	
Tributary 1	At the confluence with McAlpine Creek	•535	•539	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.7 mile upstream of U.S. Highway 521.	None	•535	
Tributary 1A	At the confluence with McAlpine Creek Tributary 1.	•535	•539	Mecklenburg County (Unicorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	Approximately 500 feet upstream of Ballantyne Commons Parkway.	None	•568	
Tributary 3	At the confluence with McAlpine Creek	•562	•561	City of Charlotte
	Approxmately 550 feet upstream of Providence Road.	None	•596	
Tributary 6	At the confluence with McAlpine Creek	•669	•668	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 1.1 miles upstream of the confluence with McAlpine Creek.	•698	•702	
McCullough Creek	At the confluence with Sugar Creek	•537	•540	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 450 feet upstream of Nations Ford Road.	None	•565	
McDowell Creek	At the confluence with Mountain Island Lake	•656	•655	Towns of Huntersville and Cornelius, Mecklenburg County (Unincorporated Areas)
	Approximately 400 feet upstream of Statesville Road.	None	•741	
Tributary 1	At the confluence with McDowell Creek	•662	•665	Mecklenburg County (Unincorporated Areas)
	Approximately 0.7 mile upstream of McIlwaine Road.	•674	•671	
Tributary 2	At the confluence with McDowell Creek	•663	•666	Mecklenburg County (Unincorporated Areas)
	Approximately 0.5 mile upstream of the confluence with McDowell Creek.	None	•668	
McIntyre Creek	Approximately 250 feet upstream of the confluence with Long Creek.	•663	•662	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 520 feet upstream of Lawnmeadow Drive.	•746	•745	
McKee Creek	Approximately 1,650 feet downstream of Reedy Creek Road.	None	602	Mecklenburg County (Unincorporated Areas)
	Approximately 600 feet upstream of Denbur Drive	•663	•662	
McMullen Creek	At the confluence with McAlpine Creek	•532	•534	City of Charlotte, Town of Pineville, Mecklenburg County (Unincorporated Areas)
	Approximately 0.8 mile upstream of Addison Drive.	•684	•685	
Tributary	At the confluence with McMullen Creek	•666	•667	City of Charlotte
	Approximately 150 feet upstream of S. Sharon Amity Road.	•686	•687	
North Prong Clarke Creek	At the confluence with Clarke Creek	•636	•637	Town of Huntersville, Mecklenburg County (Unincorporated Areas)
	Approximately 1,500 feet upstream of Ramah Church Road.	•682	•685	
Paw Creek	At First Norfolk Southern Railroad Crossing	None	•572	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.06 mile upstream of Second Norfolk Southern Railroad Crossing.	None	•717	
Tributary	At the confluence with Paw Creek	•610	•607	Mecklenburg County (Unincorporated Areas)
	Approximately 0.8 mile upstream of the confluence with Paw Creek.	None	•655	
Tributary 1A	At the confluence with Paw Creek	•645	•647	City of Charlotte
	Approximately 50 feet upstream of Freedom Drive.	None	•674	
Polk Ditch	At the confluence with Walker Branch	•570	•569	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 300 feet upstream of Highway 49	None	•602	
Ramah Creek	At the confluence with Clarke Creek	•623	•630	Mecklenburg County (Unincorporated Areas)
	Approximately 300 feet upstream of Highway 73	None	•722	
Rea Branch	At the confluence with McAlpine Creek	•546	•547	City of Charlotte
	Approximately 210 feet upstream of Sequoia Red Lane.	•564	•568	

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
Reedy Creek	Approximately 0.4 mile downstream of Reedy Creek Road.	•602	•608	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.75 mile upstream of Plaza Road Extension.	•663	•664	
Tributary 1	At the County boundary	•624	•625	Mecklenburg County (Unincorporated Areas)
	Approximately 1,680 feet upstream of County boundary.	None	•634	
Tributary 2	At the confluence with Reedy Creek	•624	•626	Mecklenburg County (Unincorporated Areas)
	Approximately 1.2 miles upstream of Robinson Church Road.	None	•664	
Tributary 3	At the confluence with Reedy Creek	•640	•639	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 100 feet upstream of Chapparall Lane.	None	•710	
Rocky Branch	At the confluence with Fourmile Creek	•559	•558	City of Charlotte
	Approximately 700 feet upstream of Providence Road.	None	•627	
Rocky River	Approximately 250 feet upstream of the confluence of West Branch Rocky River.	•648	•647	Town of Davidson, Mecklenburg County (Unincorporated Areas)
	Approximately 2.3 miles upstream of East Rocky River Road.	•682	•687	
Tributary	Approximately 560 feet downstream of Interstate 85.	•605	•604	Mecklenburg County (Unincorporated Areas)
	Approximately .5 mile upstream of Interstate 85	None	•622	
Sardis Branch	At the confluence with McAlpine Creek	•572	•573	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 810 feet upstream of Sardis Road	None	•636	
Sherman Branch	At the confluence with Clear Creek	•573	•571	Mecklenburg County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Cabarrus Road.	•607	•614	
Sixmile Creek	At the Lancaster County/South Carolina boundary.	•569	•575	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.6 mile upstream of Tiley Morris Road.	•667	•664	
South Prong Clarke Creek	At the confluence with Clarke Creek	•636	•637	Mecklenburg County (Unincorporated Areas)
	Approximately 1.4 miles upstream of Asbury Chapel Road.	•674	•676	
South Prong West Branch Rocky River.	At the confluence with West Branch Rocky River	•654	•656	Town of Davidson, Mecklenburg County (Unincorporated Areas)
	Approximately 1.7 miles upstream of Davidson-Concorde Road.	None	•706	
Tributary	At the confluence with South Prong West Branch Rocky River.	•676	•680	Mecklenburg County (Unincorporated Areas)
	Approximately 0.9 mile upstream of the confluence with South Prong West Branch Rocky River.	None	•702	
Steele Creek	At the State boundary	•571	•569	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 100 feet upstream of Brown-Grier Road.	None	•628	
Stevens Creek	At the Union County boundary	None	•627	Town of Mint Hill, Mecklenburg County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Thompson Road.	None	•682	
Tributary	At the confluence with Stevens Creek	•642	•643	Town of Mint Hill
	Approximately 0.5 mile upstream of Thompson Road.	None	•662	

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
Stewart Creek	At the confluence with Irwin Creek	•636	•640	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 650 feet upstream of Capps Hill Mine Road.	None	•726	
Tributary 1	At the confluence with Stewart Creek	•636	•640	City of Charlotte
	Approximately 1,500 feet upstream of Berryhill Road.	•662	•663	
Tributary 2	At the confluence with Stewart Creek	•655	•651	City of Charlotte
	At the upstream side of Interstate 85	None	•706	
Tributary 3	At the confluence with Stewart Creek	•676	•675	City of Charlotte
	Approximately 0.4 mile upstream of Hoskins Road.	None	•724	
Stony Creek	At the confluence with Mallard Creek	•585	•591	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Mallard Creek Road.	None	•701	
Tributary	Approximately 650 feet upstream of the confluence with Stony Creek.	•641	•640	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 1 mile upstream of Mallard Creek Road.	None	•714	
Stowe Branch	At the confluence with Lake Wylie	•570	•571	Mecklenburg County (Unincorporated Areas)
	Approximately 140 feet upstream of Shopton Road.	None	•598	
Sugar Creek	Approximately 0.8 mile downstream of the confluence of McCullough Branch.	•536	•538	City of Charlotte, Town of Pineville, Mecklenburg County (Unincorporated Areas)
	At the confluence of Taggart Creek	•603	•607	
Swan Run	At the confluence with McAlpine Creek	•563	•561	City of Charlotte
	Approximately 1 mile upstream of Sharon View Road.	•595	•597	
Taggart Creek	At the confluence with Sugar Creek	•603	•607	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	At the upstream side of Denver Avenue	•687	•682	
Ticer Branch	At the confluence with Paw Creek	•577	•578	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Wilkinson Boulevard.	None	•645	
Toby Creek	At the confluence with Mallard Creek	•595	•599	City of Charlotte
	Approximately 0.7 mile upstream of West Rocky River Road.	•680	•679	
Torrence Creek	At the confluence with McDowell Creek	•671	•672	Town of Huntersville, Mecklenburg County (Unincorporated Areas)
	Approximately 0.5 mile upstream of I–77	None	•733	
Tributary 1	At the confluence with Torrence Creek	•674	•673	Town of Huntersville, Mecklenburg County (Unincorporated Areas)
	Approximately 1,000 feet upstream of Statesville Road.	None	•727	
Tributary 2	At the confluence with Torrence Creek	•677	•678	Town of Huntersville, Mecklenburg County (Unincorporated Areas)
	Approximately 400 feet upstream of I–77	None	•721	
Walker Branch	At the State boundary	•571	•569	Mecklenburg County (Unincorporated Areas)
	Approximately 0.3 mile upstream of Highway 49	•597	•596	
Tributary	At the confluence with Walker Branch	•581	•583	City of Charlotte, Mecklenburg County (Unincorporated Areas)
	Approximately 2,500 feet upstream of Steele Creek Road.	None	•609	

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
West Branch Rocky River ..	Approximately 0.5 mile upstream of the confluence with Rocky River.	•648	•647	Town of Davidson, Mecklenburg County (Unincorporated Areas)
	Approximately 1,200 feet upstream of Grey Road	None	•687	
Tributary	At the confluence with West Branch Rocky River	•677	•672	Town of Davidson, Mecklenburg County (Unincorporated Areas)
	Approximately 900 feet upstream of Davis Road	None	•707	

City of Charlotte

Maps available for inspection at the Mecklenburg County Stormwater Planning Department, 700 North Tryon Street, Charlotte, North Carolina.

Send comments to Ms. Pam Syfert, Charlotte City Manager, Government Center, 600 East 4th Street, Charlotte, North Carolina 28202.

Town of Cornelius

Maps available for inspection at the Cornelius Planning Department, 21445 Catawba Avenue, Cornelius, North Carolina.

Send comments to Mr. Bob Race, Cornelius Town Manager, 21445 Catawba Avenue, Cornelius, North Carolina 28031.

Town of Davidson

Maps available for inspection at the Davidson Town Hall/ Planning Department, 216 South Main Street, Davidson, North Carolina.

Send comments to The Honorable Randall Kincaid, Mayor of the Town of Davidson, P.O. Box 37, Davidson, North Carolina 28036.

Town of Huntersville

Maps available for inspection at the Town of Huntersville Planning Department, 101 Huntersville '' Concord Road, Huntersville, North Carolina.

Send comments to The Honorable Kim Phillips, Mayor of the Town of Huntersville, 9017 Taunton Drive, Huntersville, North Carolina 28078.

Town of Matthews

Maps available for inspection at the Matthews Town Hall, 232 Matthews Station Street, Matthews, North Carolina.

Send comments to The Honorable R. Lee Myers, Mayor of the Town of Matthews, 232 Matthews Station Street, Matthews, North Carolina 28105.

Mecklenburg County (Unincorporated Areas)

Maps available for inspection at the Mecklenburg County Storm Water Planning Department, 700 North Tryon Street, Charlotte, North Carolina.

Send comments to Mr. Harry Jones, Sr., Mecklenburg County Manager, 600 East 4th Street, 11th Floor, Charlotte, North Carolina 28202.

Town of Mint Hill

Maps available for inspection at the Mint Hill Town Hall, 7151 Matthews Mint Hill Road, Mint Hill, North Carolina.

Send comments to The Honorable Ted H. Biggers, Mayor of the Town of Mint Hill, P.O. Box 23457, Mint Hill, North Carolina 28227.

Town of Pineville

Maps available for inspection at the Mecklenburg County Storm Water Planning Department, 700 North Tryon Street, Charlotte, North Carolina.

Send comments to The Honorable George Fowler, Mayor of the Town of Pineville, 118 College Street, Pineville, North Carolina 28134.

NORTH CAROLINA
Wilson County

Contentnea Creek	At the confluence of Hominy Swamp	•78	•79	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 0.6 mile upstream of Highway 581	None	•137	
Hominy Swamp	At the confluence with Contentnea Creek	•78	•79	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 550 feet upstream of Airport Drive	None	•149	
Little Hominy Swamp	At the confluence with Hominy Swamp	•114	•113	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 450 feet upstream of George Dew Road.	None	•145	
Tributary 1	Approximately 80 feet upstream of the confluence with Little Hominy Swamp.	None	•127	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 0.4 mile upstream of Stedman Drive.	None	•147	
Aycock Swamp	At the confluence with Black Creek	None	•71	Wilson County (Unincorporated Areas)
	At the Wilson/Wayne County boundary	None	•76	
Black Creek	Approximately 0.8 mile upstream of the confluence with Contentnea Creek.	None	•69	Towns of Black Creek and Lucama, Wilson County (Unincorporated Areas)
	Approximately 1,000 feet upstream of the confluence of Robin Swamp.	None	•131	

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
Bloomery Swamp Tributary 1.	Approximately 250 feet upstream of the confluence with Bloomery Swamp.	None	•102	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Wilson Chistain Road.	None	•134	
Tributary 2	Approximately 850 feet upstream of the confluence with Bloomery Swamp.	None	•103	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 1.6 miles upstream of the confluence with Bloomery Swamp.	None	•130	
Tributary 3	Approximately 500 feet upstream of the confluence with Bloomery Swamp.	•124	•125	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 0.3 mile upstream of Packhouse Road.	None	•151	
Goss Swamp	Approximately 1,300 feet upstream of the railroad	None	•62	Town of Stantonsburg, Wilson County (Unincorporated Areas)
	Approximately 1,900 feet upstream of the confluence of Goss Swamp Tributary.	None	•83	
Tributary	At the confluence with Goss Swamp	None	•82	Wilson County (Unincorporated Areas)
	Approximately 0.5 mile upstream of the confluence with Goss Swamp.	None	•88	
Great Swamp	At the confluence with Black Creek	None	•81	Wilson County (Unincorporated Areas)
	Approximately 1,800 feet downstream of the confluence of Great Swamp Tributary 1.	None	•98	
Tributary 1	At the confluence with Great Swamp	None	•91	Wilson County (Unincorporated Areas)
	At the Wilson/Wayne County boundary	None	•92	
Hominy Swamp Tributary 1	At the confluence with Hominy Swamp	•82	•85	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 0.9 mile upstream of Lane Street	None	•127	
Tributary 2	At the confluence with Hominy Swamp	•91	•90	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 100 feet upstream of Stantonsburg Road.	None	•122	
Shepard Branch	At the confluence with Contentnea Creek	•104	•106	Wilson County (Unincorporated Areas)
	Approximately 3,200 feet upstream of the confluence with Contentnea Creek.	•104	•106	
Marsh Swamp	At the confluence with Contentnea Creek	•122	•123	Wilson County (Unincorporated Areas)
	Approximately 2.0 miles downstream of Rock Ridge Sims Road.	•124	•125	
Little Swamp	At the confluence with Contentnea Creek	•108	•111	Wilson County (Unincorporated Areas)
	Approximately 0.8 mile upstream of the confluence with Contentnea Creek.	•113	•114	
Bloomery Swamp	At the confluence with Contentnea Creek	•100	•102	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 0.8 mile upstream of the confluence with Contentnea Creek.	•101	•102	
Wiggins Mill Tributary	At the confluence with Contentnea Creek	•98	•99	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 0.6 mile upstream of the confluence with Contentnea Creek.	•98	•99	
Cattail Branch	Approximately 0.5 mile upstream of the confluence with White Swamp.	None	•95	Wilson County (Unincorporated Areas)
	At the confluence with White Swamp	None	•91	
Cattail Swamp	Approximately 1.4 miles upstream of the confluence of Cattail Swamp Tributary.	None	•103	Wilson County (Unincorporated Areas)
	At the confluence with White Swamp	None	•82	
Tributary 1	Approximately 1.1 miles upstream of the confluence with Cattail Swamp.	None	•103	Wilson County (Unincorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	At the confluence with Cattail Swamp	None	•95	
Town Creek	Approximately 300 feet downstream of the Wilson/Edgecombe County boundary.	None	•73	Town of Elm City, Wilson County (Unincorporated Areas)
	Approximately 0.4 mile downstream of Sharpe Store Road.	None	•117	
Tributary 1	Approximately 0.2 mile downstream of Langley Road.	None	•99	Wilson County (Unincorporated Areas)
	At the confluence with Town Creek	None	•78	
Tributary 2	At the confluence with Town Creek	None	•73	Wilson County (Unincorporated Areas)
	Approximately 0.4 mile upstream of Route 42	None	•95	
White Swamp	At the confluence with Town Creek	None	•80	Wilson County (Unincorporated Areas)
	Approximately 0.5 mile upstream of the confluence of Cattail Branch.	None	•94	
Tributary	At the confluence with White Swamp	None	•85	Wilson County (Unincorporated Areas)
	Approximately 0.8 mile upstream of the confluence with White Swamp.	None	•90	
Black Creek Tributary	Approximately 225 feet upstream of the confluence of Tributary to Black Creek Tributary.	None	•104	Town of Lucama, Wilson County (Unincorporated Areas)
	Approximately 2,085 feet upstream of the confluence of the Tributary to Black Creek Tributary.	None	•107	
Toisnot Swamp	Approximately 1,000 feet upstream of the railroad	None	•62	City of Wilson, Town of Stantonsburg, Wilson County (Unincorporated Areas)
	Approximately 550 feet downstream of Wilson/Nash County boundary.	None	•140	
Tributary 2	At the confluence with Lake Wilson/Toisnot Swamp.	None	•120	City of Wilson, Wilson County (Unincorporated Areas)
	Approximately 400 feet upstream of Rutgen Road	None	•137	
Turkey Creek	Approximately 100 feet downstream of Narron Road.	None	•152	Wilson County (Unincorporated Areas)
	Approximately 100 feet downstream of the Wilson/Nash County boundary.	None	•155	
Turner Swamp	At the confluence with Contentnea Creek	•68	•67	Wilson County (Unincorporated Areas)
	At the Wilson/Wayne County boundary	None	•76	
Ward Run	At the Wilson/Pitt County boundary	None	•92	Wilson County (Unincorporated Areas)
	Approximately 1.3 miles upstream of the Wilson/Pitt County boundary.	None	•98	
Whiteoak Swamp	Approximately 0.5 mile downstream of U.S. Highway 264.	None	•76	Wilson County (Unincorporated Areas)
	Approximately 2.5 miles upstream of Gardners School Road.	None	•97	
Juniper Creek	Approximately 1,200 feet upstream of the confluence of Bloomery Swamp.	None	•157	Wilson County (Unincorporated Areas)
	Approximately 1,500 feet upstream of Green Pond Road.	None	•183	
Lee Swamp	At the confluence with Black Creek	None	•106	Town of Lucama, Wilson County (Unincorporated Areas)
	Approximately 0.4 mile upstream of Highway 301	None	•119	
Little Contentnea Creek	At the Wilson/Greene County boundary	None	•87	Wilson County (Unincorporated Areas)
	Approximately 1.2 miles upstream of Eagle Cross Road.	None	•91	
Mill Branch	At the confluence with White Oak Swamp	None	•83	Wilson County (Unincorporated Areas)
	Approximately 1.5 miles upstream of the confluence with White Oak Swamp.	None	•96	None
Millstone Creek	Approximately 500 feet upstream of Countryside Road.	None	•159	City of Wilson, Town of Sims, Wilson County (Unincorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	Approximately 1,000 feet upstream of railroad	None	•195	
Moccasin Creek	Approximately 0.6 mile upstream of Highway 581	None	•137	Wilson County (Unincorporated Areas)
	At the Wilson/Nash/Johnston County boundary ...	None	•158	
Robin Swamp	At the confluence with Black Creek	None	•129	Wilson County (Unincorporated Areas)
	Approximately 0.4 mile upstream of Newsome Mill Road.	None	•139	

Town of Black Creek

Maps available for inspection at the Town of Black Creek Zoning Administration, 112 West Center Street, Black Creek, North Carolina.

Send comments to The Honorable Ralph Smith, Mayor of the Town of Black Creek, P.O. Box 8, Black Creek, North Carolina 27813.

Town of Elm City

Maps available for inspection at the Elm City Town Hall, 117 South Railroad Street, Elm City, North Carolina.

Send comments to The Honorable Grady Smith, Mayor of the Town of Elm City, P.O. Box 717, Elm City, North Carolina 27822.

Town of Lucama

Maps available for inspection at the Lucama Town Clerk's Office, 111 South Main Street, Lucama, North Carolina.

Send comments to The Honorable Virginia Johnson, Mayor of the Town of Lucama, P.O. Box 127, Lucama, North Carolina 27851.

Town of Sims

Maps available for inspection at the Sims Town Hall, 6402 U.S. 264A, Sims, North Carolina.

Send comments to The Honorable Susan Evans, Mayor of the Town of Sims, P.O. Box 161, Sims, North Carolina 27880.

Town of Stantonsburg

Maps available for inspection at the Stantonsburg Town Hall, 108 East Commercial Avenue, Stantonsburg, North Carolina.

Send comments to The Honorable Roland Gardner, Mayor of the Town of Stantonsburg, P.O. Box 10, Stantonsburg, North Carolina 27883.

City of Wilson

Maps available for inspection at the Wilson Development Services Department, 112 North Goldsboro Street, Wilson, North Carolina.

Send comments to The Honorable C. Bruce Rose, Mayor of the City of Wilson, P.O. Box 10, Wilson, North Carolina 27894.

Wilson County (Unincorporated Areas)

Maps available for inspection at the Wilson County Mapping Department, 101 North Goldsboro, Wilson, North Carolina.

Send comments to Mr. Ellis Williford, Wilson County Manager, P.O. Box 1728, Wilson, North Carolina 27894.

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

Dated: June 18, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16288 Filed 6–26–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–D–7566]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, P.E., FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–2831.

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

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

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

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

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

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

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
New York	Schuyler Falls (Town), Clinton.	Saranac River	At upstream corporate limits	*735	*736
			At downstream corporate limits	*256	*245
Maps available for inspection at the Schuyler Falls Town Office, 997 Mason Street, Schuyler Falls, New York. Send comments to Mr. Harold Ormsby, Town of Schuyler Falls Supervisor, P.O. Box 99, Schuyler Falls, New York 12962.					

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

Dated: June 18, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–16287 Filed 6–26–03; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register

Vol. 68, No. 124

Friday, June 27, 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

Animal and Plant Health Inspection Service

[Docket No. 03–034–2]

Ivy Gourd; Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to a proposed field release of a nonindigenous leaf-mining weevil, *Acythopeus cocciniae,* into Guam and Saipan for the biological control of ivy gourd *(Coccinia grandis)*. The environmental assessment documents our review and analysis of environmental impacts associated with widespread release of this agent. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Tracy A. Horner, Ecologist, Environmental Services, PPD, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737–1237; (301) 734–5213.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) is considering several applications for permits to release the nonindigenous leaf-mining weevil *Acythopeus cocciniae* in order to reduce the severity and extent of ivy gourd *(Coccinia grandis)* infestations in Guam and Saipan.

Ivy gourd is native to Africa, Asia, Fiji, and northern Australia. This invasive weed is a rapidly growing, climbing or trailing vine that forms thick mats, overgrowing trees and other vegetation, walls, fences, and utility poles. Ivy gourd also serves as a host for numerous pests of cucurbitaceous crops, including black leaf-footed bug *(Leptoglossus australis)*, leafminers (*Liriomyza* spp.), melon aphid *(Aphis gossypii)*, melon fly *(Bactrocera cucurbitae)*, pumpkin caterpillar *(Diaphania indica)*, red pumpkin beetle *(Aulacophora foveicollis)*, and whiteflies (*Bemisia* spp.).

Ivy gourd has been detected in the United States in Guam, Hawaii, and Saipan. In July 1999, we prepared an environmental assessment (EA) that examined the potential release of *A. cocciniae* and another weevil of the same genus, *A. burkhartorum*, into the environment for use as biological control agents to reduce the severity and extent of ivy gourd infestations in the State of Hawaii. APHIS has subsequently received permit applications for additional releases of *A. cocciniae* beyond the area considered in the 1999 EA. The applicants propose to release *A. cocciniae* in Guam and Saipan to reduce the severity and extent of ivy gourd infestation on those islands.

A. cocciniae is native to Africa. Adults live up to 200 days and feed on the leaves of the ivy gourd, creating numerous holes in the lamina. Eggs are laid singly by insertion into the lamina of the leaves. The eggs hatch in about 8 days, and the larvae mine the leaves for 9 to 10 days thereafter. Pupation takes place within the mine and lasts for 15 days. Adult feeding and larval mining can cause drying of the leaves and eventual defoliation.

On April 8, 2003, we published in the **Federal Register** (68 FR 17007–17008, Docket No. 03–034–1) a notice in which we announced the availability, for public review and comment, of an EA that examined the potential environmental impacts associated with the proposed release of *A. cocciniae* in Guam and Saipan for the biological control of ivy gourd.

We solicited comments on the EA for 30 days ending on May 8, 2003. We received one comment by that date, from a State agricultural agency. The commenter supported the proposed action.

In this document, we are advising the public of APHIS' record of decision and finding of no significant impact (FONSI) regarding the release of the nonindigenous leaf-mining weevil *A. cocciniae* into Guam and Saipan for the biological control of ivy gourd.

The EA and FONSI may be viewed on the Internet at *http://www.aphis.usda.gov/ppq/* by following the link for ''Document/Forms Retrieval System'' then clicking on the triangle beside ''6—Permits—Environmental Assessments,'' and selecting document number 0034. You may request paper copies of the EA and FONSI by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to the title of the EA when requesting copies. The EA and FONSI are also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 23rd day of June, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–16298 Filed 6–26–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Facsimile Signature Authorization and Verification

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency is seeking comments from all interested individuals and entities on an extension of a currently approved collection. Specifically, comments are sought about FSA–237, which serves as a verification of producer's original signature and their desire to conduct business with FSA electronically.

DATES: Comments on this notice must be received on or before August 26, 2003 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Virgil Ireland, Agricultural Program Specialist, USDA, FSA, STOP 0517, 1400 Independence Avenue, SW., Washington, DC 20250 and Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments may be submitted via facsimile to (202) 690–3632. Copies of the information collection may be obtained from Mr. Ireland at the above address.

FOR FURTHER INFORMATION CONTACT: Virgil Ireland, Agricultural Program Specialist, Emergency Preparedness and Program Branch, Production, Emergencies, and Compliance Division, (202) 720–5103.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Facsimile Signature Authorization and Verification (7 CFR part 718).

OMB Control Number: 0560–0203.

Type of Request: Extension of currently approved information collection.

Abstract: Individuals wishing to conduct business and provide certain signed documents to the USDA Service Center agencies via facsimile machines must complete a FSA–237, Facsimile Signature Authorization and Verification form. The FSA–237 serves as evidence that the individual is willing to conduct business and provide signed documents through facsimile machines. The FSA–211 also provides the agencies a source to authenticate signatures and transactions in the event of errors or fraud that require legal remedies. The information collected on the FSA–237 is limited to the individual's name, signature and identification number. Individuals must agree to the terms and conditions of conducting business via facsimile machines. Without the collection of this information, USDA service center agencies cannot ensure the authenticity of signatures received via facsimile unless they are supplemented with the original signature.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average .02 hours per response.

Respondents: Individuals who wish to conduct business with USDA service center agencies via facsimile.

Estimated Number of Respondents: 987,341 hours.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 19,747.

Comment is invited: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of the information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public records. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed at Washington, DC, on June 20, 2003.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 03–16311 Filed 6–26–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

RIN 0596–AC03

Stewardship End Result Contracting

AGENCY: Forest Service, USDA, and Bureau of Land Management, DOI

ACTION: Notice of interim guidelines; opportunity for public input.

SUMMARY: The Department of Agriculture, Forest Service (FS), and the Department of the Interior, Bureau of Land Management (BLM) would like to receive public input on the interim guidelines jointly developed to implement the stewardship end result contracting provisions as authorized by section 323 of P.L. 108–7, the Consolidated Appropriations Resolution, 2003 (16 U.S.C. 2104 note). The agencies are publishing these guidelines in the **Federal Register** in order to insure that the public has the opportunity to comment on implementation guidelines for this new authority granted by Congress. The public's input will be considered prior to development of final agency policy.

DATES: Public input must be received in writing by July 28, 2003.

ADDRESSES: Written comments concerning this notice should be addressed to: USDA Forest Service, Forests and Rangelands Staff, Mail Stop 1105, 1400 Independence Avenue, SW., Washington, DC 20024–1105.

Public input on these interim guidelines may also be submitted via facsimile to (202) 205–1045 or by e-mail to *stewardship@fs.fed.us*. If comments are sent via facsimile or e-mail, the public is requested not to send duplicate written comments via regular mail.

All comments, including names and addresses when provided, will be available for public inspection and copying. The public may inspect comments received at the office of the Director of Forests and Rangelands, 201 14th Street, SW., Washington, DC. Visitors are urged to call ahead to facilitate entry into the building at (202) 205–0893.

FOR FURTHER INFORMATION CONTACT: Darci Birmingham, Forests and Rangelands Staff, Forest Service at (202) 205–1759, or Mike Haske, Renewable Resources and Planning, Bureau of Land Management at (202) 452–0312. Individuals who use telecommunication

devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 4 p.m., eastern standard time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Section 323 of P.L. 108–7, the Consolidated Appropriations Resolution, 2003, grants the Bureau of Land Management (BLM) and the Forest Service (FS) authority until September 30, 2013, to enter into stewardship contracting projects (stewardship projects) with private persons or public or private entities, by contract or by agreement, to perform services to achieve land management goals for the national forests or public lands that meet local and rural community needs. In this law, Congress expanded the existing FS authority for stewardship projects to include BLM. FS pilot program authority was previously granted until September 30, 2004, by section 332 of P.L. 107–63, Department of the Interior and Related Agencies Appropriations Act, 2002. FS pilot program authority was granted until September 30, 2002, by section 347 of P.L. 105–277, Department of the Interior and Related Agencies Appropriations Act, 1999. Pursuant to P.L. 108–7, both Federal agencies are authorized to enter into stewardship projects to achieve agency land management objectives that meet local rural community needs. Until final long-term policy is announced, the BLM will implement the FY 2003 program in accordance with Instruction Memorandum 2003–107. The Forest Service is relying on this notice as the interim final policy for stewardship projects, which becomes effective on the date of publication.

The land management goals for stewardship projects may include treatments to improve, maintain, or restore forest or rangeland health; restore or maintain water quality; improve fish and wildlife habitat; and reduce hazardous fuels that pose risks to communities and ecosystem values, reestablish native plant species, or other land management objectives. Stewardship projects are not a replacement for agencies' existing timber sale programs. Stewardship contracting may differ from other contracting authorities in the following manner:

—Contracts will be selected on a best value basis;
—Contract length may exceed 5 years but will not exceed 10 years;
—The agencies may apply the value of timber or other forest products removed as an offset against any services received;
—Monies received from the sale of forest products or vegetation removed from a stewardship project site may be retained by the agencies and applied at the project site or at another stewardship project site without further appropriation;
—A multiparty monitoring and evaluation process is required.

The BLM is implementing stewardship projects on a limited basis in FY 2003 while guidance for long-term implementation is being developed. Therefore, BLM has issued an Instruction Memorandum 2003–107 requesting a list of proposed stewardship projects for consideration. The State Director will select these projects, with review by the Headquarters Office of both the BLM and the Department of the Interior.

The FS plans to implement the stewardship contracting authority much as it did the Stewardship Pilot Program authorized by P.L. 107–63. The FS will issue an interim directive in Forest Service Handbook 2409.19. Stewardship projects are authorized on all FS units. The FS will apply lessons learned from the Stewardship Pilot Program when developing and implementing stewardship projects under the expanded authority. Forest Supervisors will select the projects for their respective units. Regional Foresters will provide oversight of the program.

Description of Interim Guidelines

The following are interim guidelines for all stewardship projects implemented under section 323 of P.L. 108–7. In developing these interim guidelines, the agencies considered comments received by the Pinchot Institute for Conservation from participants at a National Outreach Forum the Institute held in Washington, DC on April 15, 2003. USDA and DOI contracted with the Pinchot Institute for Conservation to conduct this forum. The Pinchot Institute for Conservation is also under contract with the FS to monitor implementation of the 84 FS stewardship pilot projects.

1. Stewardship projects authorized by Public Law 108–7 will be designed to achieve land management goals by modifying vegetation to make forests and rangelands more resilient to natural disturbance mechanisms such as wind, flood, fire, insects, and disease. The objectives of these projects may include improving forest and rangeland health, restoring or maintaining water quality, improving fish and wildlife habitat, reestablishing native plant species, and/or reducing hazardous fuels that pose risks to communities and ecosystem values.

2. Deriving revenue from the sale of any by-products or other materials designated for removal from these stewardship projects will be a secondary objective to the restoration goals. Forest products will be appraised at fair market value. Contracts of a duration longer than 3 years will allow for price adjustment for the value of these materials to protect the public interest as new markets develop.

3. The agencies will use an open, collaborative process and, as appropriate, will seek early involvement of local government agencies, including tribal governments, and any interested groups or individuals in various phrases of project development and implementation.

4. The agencies will seek to use the stewardship authority in conjunction with other land management authorities to develop and implement stewardship projects across agency administrative boundaries. The agencies will seek to achieve land management goals on a watershed, or larger scale.

5. The Forest Service may collect residual receipts pursuant to the Knutson-Vandenberg Act of June 9, 1930, and the National Forest Management Act of 1976, from excess offset value.

6. All stewardship projects will comply with applicable environmental laws and regulations, including an appropriate level of environmental review under the National Environmental Policy Act, and will be consistent with applicable agency land and resource management plans. Projects will be subject to applicable agencies' appeals and dispute resolution processes.

7. The agencies may use existing contract or assistance instruments, as appropriate, to implement stewardship projects. In addition, the agencies may develop new contracting mechanisms as needed to implement stewardship projects consistent with relevant laws, regulations, and guidelines.

8. In awarding a stewardship contract on a best value basis, the agencies may, in addition to cost or price, consider such criteria as the contractor's past performance, work quality, existing public or private agreements or contracts, on-time delivery, and experience. The agencies may consider the benefits to local and rural community needs when considering award of a stewardship contract on a best value basis. The agencies' may use non-traditional contractors or recipients, such as counties or not-for-profit or non-

governmental organizations, if consistent with relevant authorities.

9. The agencies may use all available authorities to involve a wide range of contractors or recipients, allow for offsets to be utilized for other restoration treatments. The agencies will maintain Federal agency control and oversight of operations to assure the protection of public assets and compliance with environmental requirements.

10. Contractors who are awarded stewardship contracts will provide such bonds as may be required under law or regulation. The agencies may require performance and payment bonds in order to protect the government's investment in receipts from forest products to be removed under a contract or agreement under Pub. L. 108–7.

11. The agencies will develop a two-phased training approach to implement this authority. Internal agency training will focus on allowing for contracting authority to occur as close to the field as practicable and will cover topics such as project management, performance based end-result contracting and trading goods for services. Agencies also will provide external training subject to available funding to assist contractors in developing skills to do the work required by the contract, and knowledge in competing for and performing on stewardship contracts.

12. The agencies will utilize multiparty monitoring, open to interested groups or individuals, to monitor and evaluate an appropriate sampling of the projects or programs at the appropriate levels. If supported by the local collaborative process, monitoring will be conducted at the project level, subject to available funding, and will be well coordinated among administrative units to ensure that the sampling of projects monitored is geographically diverse and represents the range of projects undertaken. Multi-party monitoring will focus on:

a. The status of development, execution, and administration of agreements or contracts,

b. The specific accomplishments that have resulted,

c. The role of local communities in development of agreement or contract plans.

13. When reporting to Congress, the agencies will utilize performance and workload measures consistent with the Government Performance and Results Act. To the extent practicable, these measures will be consistent across the Department of the Interior and the Department of Agriculture.

14. Stewardship contracting provides for multiple year contracts up to 10 years duration. The agencies are encouraged to use multiple-year funding to provide incentives to potential sources to make investments in long-term landscape improvement projects.

15. In accordance with law, the agencies will maintain authority over all phases of development and implementation of contracts and agreements under this authority and will administer them in a manner consistent with their intended goals.

16. Project managers will separately track the values of the goods being sold and the services being received for each project.

17. Use of receipts is limited to direct on-the-ground project implementation. Receipts will not be used for overhead, administrative, or indirect costs or the completion of environmental studies or other planning and analysis.

18. The use of full and open competition will remain standard operating practice and anything less than full and open competition will need to be documented and approved by the appropriate Regional Forester for the FS and the appropriate State Director for BLM.

Conclusion

The FS and BLM are seeking public comment on interim agency guidelines to implement stewardship projects, as authorized by section 323 of Pub. L. 108–7, to achieve agency land management objectives and meet community needs for improving, maintaining, and restoring forest or rangeland health; restoring and maintaining water quality, improving fish and wildlife habitat; and reducing hazardous fuels that pose risks to communities and ecosystem values. The agencies will continue to examine this interim policy for additional changes that may need to be made to their respective directive systems or agency regulations. Public input received will be considered in the development of final policy for each agency.

Regulatory Certification

Environmental Impact

These interim guidelines would provide guidance to BLM and FS employees for implementing stewardship contracting authority. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's preliminary assessment is that these guidelines fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final agency policy.

In addition, the Department of the Interior Manual 516 DM, chapter 2, Appendix 1 categorically excludes from documentation in an environmental assessment or environmental impact statement ''policies, directives, regulations, and guidelines of an administrative, financial, technical, or procedural nature.'' The agencies' preliminary assessment is that these guidelines fall within these categories of actions and that no extraordinary circumstances exist that would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final agency policy.

Regulatory Impact

These interim guidelines have been reviewed under USDA and DOI procedures and Executive Order 12866 on Regulatory Planning and Review. The Office of Management and Budget has determined that these interim guidelines are not significant. Moreover, these guidelines have been considered in light of Executive Order 13272 regarding proper consideration of small entities, and the Small Business Regulatory Enforcement Fairness Act (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that these guidelines would not have a significant economic impact on a substantial number of small entities as defined by SBREFA because they would not impose record keeping requirements on them; they would not affect their competitive position in relation to large entities; and they would not affect their cash flow, liquidity, or ability to remain in the market.

Federalism

The agencies have considered these interim guidelines under the requirements of Executive Order 13132 on Federalism and have made an assessment that the guidelines conform with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore,

the agencies have determined that no further assessment of federalism implications is necessary at this time.

Consultation and Coordination With Indian Tribal Governments

These interim guidelines do not have tribal implications as defined by Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments, and therefore, advance consultation with tribes is not required. However, the projects resulting from these guidelines that do have tribal implications as defined by Executive Order 13175 will result in consultation and coordination with the appropriate tribal government.

No Takings Implications

These interim guidelines have been analyzed in accordance with the principles and criteria contained in Executive Order 12630 on Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the guidelines do not pose the risk of a taking of Constitutionally protected private property.

Energy Effects

These interim guidelines have been reviewed under Executive Order 13211 on Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. It has been determined that these guidelines do not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

These guidelines do not contain any additional record keeping or reporting requirements not already required by law or not already approved for use, and therefore, impose no additional paperwork burden on the public associated with the timber harvest program or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and it's implementing regulations at 5 CFR part 1320 do not apply.

For the Forest Service, Department of Agriculture:

Dated: June 23, 2003.

Dale N. Bosworth,

Chief.

For the Bureau of Land Management, Department of the Interior:

Dated: June 19, 2003.

Jim Hughes,

Deputy Director.

[FR Doc. 03–16348 Filed 6–26–03; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: July 27, 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 of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

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 services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

(End of Certification)

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Custodial Services, DFAS Center Complex, Denver, Colorado.
NPA: North Metro Community Services for Developmentally Disabled, Westminister, Colorado.
Contract Activity: 460th Air Base Wing, Buckley AFB, Colorado.

Service Type/Location: Custodial Service, Basewide, Patrick AFB, Florida.
NPA: Brevard Achievement Center, Inc., Rockledge, Florida.
Contract Activity: AFSPC-Patrick, Patrick AFB, Florida.

Service Type/Location: Facilities/Grounds Maintenance, Addicks Field Office and Compound Storage Yard, Barker Visitors Areas, Dams, Reservoirs & Related Facilities, Houston, Texas.
NPA: Training, Rehabilitation, & Development Institute, Inc., San Antonio, Texas.
Contract Activity: U.S. Army Corps of Engineers, Galveston, Texas.

Service Type/Location: Grounds Maintenance and Vegetation Control, Housing and Station Areas, Fallon Naval Air Station, Fallon, Nevada.
NPA: High Sierra Industries, Inc., Reno, Nevada.
Contract Activity: Engineering Field Activity NW, Fallon Field Office, Fallon, Nevada.

Service Type/Location: Janitorial/Custodial, Childcare Development Center, Andersen AFB, Guam.
NPA: Able Industries of the Pacific, Tamuning, Guam.
Contract Activity: 36th CONS/LGCD, Andersen AFB, Guam.

Service Type/Location: Janitorial/Custodial, Federal Building, U.S. Post Office and Courthouse, Hannibal, Missouri.
NPA: Learning Opportunities/Quality Works, Inc., Monroe City, Missouri.
Contract Activity: GSA, Public Buildings Service, Kansas City, Missouri.

Service Type/Location: Janitorial/Custodial, New Federal Courthouse, Seattle, Washington.
NPA: Northwest Center for the Retarded, Seattle, Washington.
Contract Activity: GSA, Public Buildings Service, Auburn, Washington.

Service Type/Location: Janitorial/Custodial, Internal Revenue Service, Ogden Service Center, Ogden, Utah.
NPA: Enable Industries Incorporated, Ogden, Utah.
Contract Activity: IRS-Western Area Procurement Branch-APFW, San Francisco, California.

Service Type/Location: Laundry/Dry Cleaning, 911 Airlift Wing, Coraopolis, Pennsylvania.
NPA: Hancock County Sheltered Workshop, Inc., Weirton, West Virginia.
Contract Activity: 911 Airlift Wing (AFRES), Pittsburgh, Pennsylvania.
Service Type/Location: Mailroom Operation, Department of Commerce, Boulder Laboratories, Buildings 1 and 2, Boulder, Colorado.
NPA: Bayaud Industries, Inc., Denver, Colorado.
Contract Activity: National Oceanic and Atmospheric Administration, Boulder, Colorado.
Service Type/Location: Medical Transcription, 355th Medical Supply-F5HOSP, Davis-Monthan AFB, Arizona.
NPA: National Telecommuting Institute, Inc., Boston, Massachusetts.
Contract Activity: 355th CONS/CC, Davis-Monthan AFB, Arizona.

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 03–16313 Filed 6–26–03; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List: Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: July 27, 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 June 28, October 18, 2002, January 10, March 7, April 18, April 25, and May 9, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 34582, 64351, 68 FR 1434, 11036, 19188, 20371, and 24919) of proposed additions to the Procurement List.

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.

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. 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: Enamel, Aerosol,
Flat Black—8010–01–505–1962,
Flat White—8010–01–505–1964,
Gloss Black—8010–01–505–1966,
Gloss White—8010–01–505–1968,
Gloss Olive Drab—8010–01–505–1970,
Gloss Red—8010–01–505–1971,
Gloss Yellow—8010–01–505–1973.
NPA: Lighthouse for the Blind, St. Louis, Missouri.
Contract Activity: GSA, Hardware & Appliances Center, Kansas City, Missouri.
Product/NSN: Quick Drop Mop Handles,
7920–00–NIB–0401 (Wood),
7920–00–NIB–0402 (Fiberglass),
7920–00–NIB–0403 (Vinyl Coated Metal).
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 & Grounds Maintenance, Cpt Alden D Allen AFRC, Horseheads, New York.
NPA: NYSARC, Inc., Seneca-Cayuga Counties Chapter, Waterloo, New York.
Contract Activity: 77th Regional Support Command (DOC), Fort Totten, New York.
Service Type/Location: Custodial & Grounds Maintenance, SSG Reynolds J King USARC, Ithaca, New York.
NPA: NYSARC, Inc., Seneca-Cayuga Counties Chapter, Waterloo, New York.
Contract Activity: 77th Regional Support Command (DOC), Fort Totten, New York.
Service Type/Location: Custodial & Grounds Maintenance, T–3 Olaf A. Frederiksen USARC, Penn Yan, New York.
NPA: Yates County Chapter NYSARC, Inc., Penn Yan, New York.
Contract Activity: 77th Regional Support Command (DOC), Fort Totten, New York.
Service Type/Location: Custodial Services, Basewide, Fort Leavenworth, Kansas.
NPA: The Helping Hand of Goodwill Industries Extended Employment SWS, Kansas City, Missouri.
Contract Activity: Army-Fort Leavenworth, Kansas.
Service Type/Location: Custodial Services, Social Security Administration, High Rise and Low Rise Buildings, Baltimore, Maryland,
NPA: Goodwill Industries of the Chesapeake, Inc., Baltimore, Maryland.
Contract Activity: Social Security Administration, Baltimore, Maryland.
Service Type/Location: Custodial Services, U.S. Border Station, Wellesley Island, Alexandria Bay, New York.
NPA: Jefferson County Chapter, NYSARC, Watertown, New York.
Contract Activity: GSA/PBS Upstate New York Service Center, Syracuse, New York.
Service Type/Location: Facilities Management, John F. Kennedy Presidential Library, Boston, Massachusetts.
NPA: Work, Incorporated, North Quincy, Massachusetts.
Contract Activity: National Archives & Records Administration, College Park, Maryland.
Service Type/Location: Janitorial/Custodial, Carl B. Stokes Federal Courthouse, Cleveland, Ohio.
NPA: VGS, Inc., Cleveland, Ohio.
Contract Activity: GSA, Public Buildings Service (5P), Chicago, Illinois.
Service Type/Location: Janitorial/Custodial, Combined Support Maintenance Shop, USPFO Warehouse (Building #2), USPFO Building #1, Springfield, Illinois.
NPA: Challenge Unlimited, Inc., Alton, Illinois.
Contract Activity: U.S. Property and Fiscal Office-IL, Springfield, Illinois.
Service Type/Location: Janitorial/Grounds Maintenance, Bureau of Alcohol, Tobacco and Firearms National Laboratory, Beltsville, Maryland.
NPA: Northwestern Workshop, Inc., Winchester, Virginia.
Contract Activity: Department of the Treasury, Bureau of ATF.

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. 03–16314 Filed 6–26–03; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Ihsan Elashyi, also known as Ihsan Elashi and Sammy Elashyi, Tetrabal Corporation, Inc., Maysoon Al Kay Ali, Mynet.Net Corp, and Al Kayali Corporation

In the Matter of: Ihsan Elashyi also known as Ihsan Elashi and Sammy Elashyi currently incarcerated at: USM No: 26265–177, FCI Seagoville, 2113 North Highway 175, Seagoville, Texas 75159 and with an address at: 605 Trail Lake Drive, Richardson, Texas 75081, Respondent, Tetrabal Corporation, Inc., 605 Trail Lake Drive, Richardson, Texas 75081, Maysoon Al Kayali, 605 Trail Lake Drive, Richardson, Texas 75081, Mynet.Net Corp, 605 Trail Lake Drive, Richardson, Texas 75081, Al Kayali Corporation, 605 Trail Lake Drive, Richardson, Texas 75081, Related Persons; Order Denying Export Privileges

On October 23, 2002, a U.S. District Court in the Northern District of Texas convicted Ishan Elashyi, also known as Ihsan Elashi and Sammy Elashyi (''Elashyi'') of violating the International Emergency Economic Powers Act (50 U.S.C. 1701–1707 (2000)) (''IEEPA''), among other crimes. Specifically, the Court found that Elashyi knowingly and willfully violated a regulation and order of the United States Department of Commerce, to wit, the Temporary Denial Order of September 6, 2001, by participating in a transaction involving the exporting and attempted exporting of goods and commodities that were subject to the Export Administration Regulations from the United States to Saudi Arabia.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. 2401–2420 (2000)) (''Act'') [1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating any of a number of federal criminal statutes including the IEEPA shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR parts 730 through 774 (2003)) (''Regulations''), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to §§ 766.25 and 750.8(a) of the regulations, upon notification that a person has been convicted of violating the IEEPA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person's export privileges for a period of up to 10 years from the date of conviction and shall also determine whether to revoke any license previously issued to such a person.

In addition, pursuant to §§ 766.25(h) and 766.23 of the regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, may take action to make applicable to related persons an order that is being sought or that has been issued (''related person'').

Having received notice of Elashyi's conviction for violating the IEEPA, and after providing notice and an opportunity for Elashyi and the related persons to make a written submission to the Bureau of Industry and Security before issuing an Order denying Elashyi's export privileges, and naming Tetrabal Corporation, Inc., Maysoon Al Kayali, Mynet.net Corporation and Al Kayali Corporation as related persons, as provided in § 766.25 of the regulations, and having read and carefully considered Elashyi's response of May 16, 2003, I, following consultations with the Director, Office of Export Enforcement, have decided to deny Elashyi's export privileges for a period of seven years from the date of Elashyi's conviction, and name Tetrabal Corporation, Inc., Maysoon Al Kayali, Mynet.net Corporation and Al Kayali Corporation as related persons. The seven-year period ends on October 23, 2009. I have also decided to revoke all licenses issued pursuant to the Act in which Elashyi or the related persons had an interest at the time of Elashyi's conviction.

Accordingly, it is hereby Ordered:

I. Until October 23, 2009, Ishan Elashyi, also known as Ihsan Elashi and Sammy Elashyi, currently incarcerated at: USM No: 26265–177, FCI Seagoville, 2113 North Highway 175, Seagoville, Texas 75159, and with an address at 605 Trail Lake Drive, Richardson, Texas 75081, (''the denied person'') and the following persons subject to the order by their relationship to the denied person, Tetrabal Corporation, Inc., Maysoon Al Kayali, Mynet.net Corporation and Al Kayali Corporation, all at the same address of 605 Trail Lake Drive, Richardson, Texas 75081, (''the related persons'') (together, the denied person and the related persons are ''persons subject to this order'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a person subject to this order of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a person subject to this order acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a person subject to this order of any item subject to the Regulations that has been exported from the United States;

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 CFR 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. V 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 FR 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the Act.

D. Obtain from a person subject to this order in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by a person subject to this order, or service any item, of whatever origin, that is owned, possessed or controlled by a person subject to this order if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. In addition to the related persons named above, after notice and opportunity for comment as provided in § 766.23 of the regulations, any other person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until October 23, 2009.

VI. In accordance with Part 756 of the Regulations, Elashyi, and any of the related persons may file an appeal from this Order with the Under Secretary for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Elashyi and each related person. This Order shall be published in the **Federal Register**.

Dated: June 19, 2003.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 03–16250 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Notice of Preliminary Results, Partial Rescission of Antidumping Duty Administrative Review, and Preliminary Determination To Not Revoke Order in Part: Canned Pineapple Fruit From Thailand

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: In response to requests by producers/exporters of subject merchandise and by the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand. This review covers seven producers/exporters of the subject merchandise. The review of one additional company is being rescinded because it did not ship during the period of review (POR), July 1, 2001, through June 30, 2002.

We preliminarily determine that for certain producers/exporters sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Bureau of Customs and Border Protection (BCBP) to assess antidumping duties based on the difference between the export price (EP) or the constructed export price (CEP), as applicable, and the NV.

EFFECTIVE DATE: June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Marin Weaver or Charles Riggle, at (202) 482-2336 or (202) 482–0650, respectively; AD/CVD Enforcement Office 5, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Case History

On July 18, 1995, the Department issued an antidumping duty order on CPF from Thailand. *See* Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit From Thailand, 60 FR 36775 (July 18, 1995). On July 1, 2002, we published in the **Federal Register** the notice of opportunity to request the seventh administrative review of this order. *See* Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 67 FR 44172 (July 1, 2002).

In accordance with section 351.213(b)(2) of the Department's regulations, the following producers/exporters made timely requests that the Department conduct an administrative review for the period from July 1, 2001, through June 30, 2002: Kuiburi Fruit Canning Company Limited (Kuiburi); Malee Sampran Public Co., Ltd. (Malee); The Thai Pineapple Public Co., Ltd. (TIPCO); and Dole Food Company, Inc., Dole Packaged Foods Company, and Dole Thailand, Ltd (collectively, Dole).

In addition, on July 31, 2002, the petitioners, Maui Pineapple Company and the International Longshoremen's and Warehousemen's Union, in accordance with § 351.213(b)(1) of the Department's regulations, submitted a timely request that the Department conduct a review of Malee, Prachuab Fruit Canning Company (Praft), Siam Fruit Canning (1988) Co., Ltd. (SIFCO), the Thai Pineapple Canning Industry Corp., Ltd. (TPC), Vita Food Factory (1989) Co. Ltd. (Vita), Siam Food Products Public Co., Ltd. (SFP), TIPCO, Kuiburi and Dole.

On August 27, 2002, we published the notice of initiation of this antidumping duty administrative review, covering the period July 1, 2001, through June 30, 2002. *See* Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 67 FR 55000 (August 27, 2002); and Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews, 67 FR 60210 (September 25, 2002).[1] On March 27, 2003 and again on June 6, 2003 the Department partially extended the preliminary results. See Canned Pineapple Fruit from Thailand: Notice of Extension of Time Limit of Preliminary Results of Antidumping Duty Administrative Review (68 FR 14941) and Canned Pineapple Fruit from Thailand: Notice of Extension of Time Limit of Preliminary Results of Antidumping Duty Administrative Review (68 FR 33910), respectively.

[1] On July 31, 2002, SFP requested a deferral of the seventh administrative review for CPF from Thailand pending the final results on its request for revocation in the sixth administrative review. On September 25, 2002 the Department rescinded its review of SFP and, in accordance with section 351.213©) of the Department's regulations, deferred for one year the initiation of the July 1, 2001 through June 30, 2002 administrative review of the antidumping duty order on CPF from Thailand with respect to SFP. On December 13, 2002 the Department revoked the order with respect to SFP. *See* Notice of Final Results of Antidumping Duty Administrative Review, Recession of Administrative Review in Part, and Final Determination to Revoke Order in part: Canned Pineapple Fruit from Thailand (67 FR 76718).

On October 4, 2002, in response to the Department's questionnaire,[2] Praft stated that it made no shipments to the United States of the subject merchandise during the POR. The Department independently confirmed with the BCBP that there were no shipments from Praft during the POR. *See Memorandum to File from Marin Weaver,* October 24, 2002. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations, and consistent with our practice, we are treating Praft as a non-shipper for purposes of this review and are preliminarily rescinding this review with respect to Praft.

Scope of the Review

The product covered by this review is CPF, defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. CPF is currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS 2008.20.0010 covers CPF packed in a sugar-based syrup; HTSUS 2008.20.0090 covers CPF packed without added sugar (*i.e.*, juice-packed). Although these HTSUS subheadings are provided for convenience and for customs purposes, the written description of the scope is dispositive.

Verification

As provided in sections 782(i)(2) and (3) of the Act, we verified information provided by Malee, TIPCO and Dole. We used standard verification procedures, including on-site inspection of the respondent producers' facilities and examination of relevant sales and financial records.

Facts Available (FA)

For the reasons discussed below, we determine that, in accordance with sections 776(a)(2), 776(b) and 782(d) of the Act, the use of adverse facts available (AFA) is appropriate for the preliminary results for TPC.

1. Background

On September 19, 2002, the Department issued a market economy questionnaire to TPC. In section A(1) TPC was instructed to submit a chart that reports the volume and value of sales of the merchandise under review to the United States and in the home market or, if the home market is not viable, as in this case, to each of its three largest third-country markets. When reporting volume, the questionnaire instructed respondents to exclude sales to affiliated resellers and ''[r]eport instead the resales by the affiliates to unaffiliated customers.'' [3] In addition, the general instructions of the questionnaire instructed TPC to ''identify any methodological changes you have made from your response in any previous administrative review'' and to ''identify any reporting methodologies that you know to not be in accordance with previous Departmental decisions regarding your company.'' [4]

On October 23, 2003, the Department received TPC's section A response and the accompanying volume and value of sales chart labeled as Exhibit A–1. TPC failed to report resales to unaffiliated customers in the United States and in its two largest third-country markets, the Netherlands and Japan, in both the response and in Exhibit A–1 as instructed by the Department's questionnaire. TPC stated in its response that its answers and the accompanying exhibits were predicated on TPC not being affiliated to Mitsubishi International Corporation (MIC) and Princes Foods B.V. (Princes), which have sales in the United States and the Netherlands respectively.[5] In addition, for Mitsubishi Corporation's (MC's) sales of CPF in Japan, TPC stated that because of MC's layered distribution system, lack of a centralized computer system to collate sales, different levels of trade at which sales are made to the final customer, and Japan's import protection scheme for Okinawan pineapple, it was ''impossible to limit [its] reporting of the value and volume of sales in Japan to resales to unaffiliated customers.''[6]

On November 14, 2002, the Department sent a letter to TPC stating that:

> Based upon the information provided in your response and the Department's preliminary finding in the sixth review, you are required to resubmit your section A response so that it reflects downstream sales made by Mitsubishi International Corporation and Princes to unaffiliated customers, and also U.S. sales made by Chicken of the Sea International. To the extent necessary, please revise the quantity and value chart submitted as Exhibit A–1 of your October 23, 2002 response to reflect any transhipments by Princes.
>
> Furthermore, please ensure that you have accounted for all sales to Japan made either directly by TPC or through an affiliate. Provide a revised Exhibit A–1 to reflect the three largest third-country markets after taking into account the sales by affiliates.[7]

The Department specified that the information was to be provided to the Department no later than November 22, 2002. On November 22, 2002, TPC submitted a revised section A response reporting sales to unaffiliated customers by Princes in the Netherlands, and by MIC and Chicken of the Sea International (COSI) in the United States, but still failed to report sales in Japan by affiliates to unaffiliated customers. TPC again claimed that it ''proved impossible'' to limit its reporting of sales in Japan to sales by affiliates to unaffiliated customers citing the same reasons it gave in its original section A response.[8]

At this point in the review, the primary issue in the case had become whether the Netherlands or Japan was the appropriate third-country comparison market.[9] Therefore, on

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

[3] *See* Antidumping Questionnaire at A–2.

[4] Antidumping Questionnaire at G–7.

[5] TPC argued that although the Department found it to be affiliated with MIC and Princes in the preliminary determination of the sixth review, it was responding to the Department's questionnaire in the seventh review as if it was not affiliated with MIC and Princes because it challenged the finding in its case brief for the sixth review and the Department's final determination in that review was still pending at the time it submitted its section A response on October 23, 2002. In the final results of the sixth review TPC was found to be affiliated with MIC and Princes. *See* Notice of Final Results of Antidumping Duty Administrative Review, Recission of Administrative Review in Part, and Final Determination to Revoke Order in Part: Canned Pineapple Fruit from Thailand, 67 FR 76718 (December 13, 2002) and accompanying Issues and Decision Memorandum at Comment 12. The Department continues to find TPC to be affiliated with MIC, Princes, and COSI in this review, as no relevant facts have change since the sixth review. *See* TPC's November 22, 2002, section A response at 1–9.

[6] TPC's October 23, 2002, section A response at 10.

[7] *See* November 14, 2002, letter from the Department to TPC (footnote omitted).

[8] TPC's November 22, 2002, revised section A response at 11 and 12.

[9] In TPC's original section A chart submitted to the Department on October 23, 2002, the volume of sales to the Netherlands was somewhat higher than the volume of sales to Japan. This difference was significantly reduced however when TPC submitted its revised section A chart on November 22, 2002, showing the volume of sales of subject merchandise to unaffiliated customers in the Netherlands. The equivalent sales information for Japan was thus imperative in order to make a determination as to the appropriate third-country comparison market.

December 4, 2002, the Department sent a second letter to TPC informing the company that ''[i]t is critical that the third-country summary information be presented in a consistent and uniform manner in order for the Department to make a decision regarding selection of the appropriate third-country market.'' The Department requested that TPC ''revise Exhibit A–1 to account for the resales by affiliated companies to unaffiliated customers for all sales to Japan during the POR, as requested in the Department's original questionnaire'' no later than December 11, 2002. TPC responded on December 11, 2002 that ''it is impossible to provide [MC's] resale data specific to TPC-produced canned pineapple fruit'' [10] citing the same reasons it did in its October 23, 2002, section A response. TPC went on to state, however, that if the Department insisted upon having the data, TPC was requesting a six-week extension.

On December 27, 2002, the Department sent a third letter to TPC stating that ''the Department again requests that you revise Exhibit A–1 to account for the resales by affiliated companies to unaffiliated customers for all sales to Japan during the period of review'' no later than January 10, 2003. In the letter, the Department warned TPC that [i]f you fail to provide this information, we may be forced to use AFA, as we will be unable to determine the appropriate third-country market to be used as the basis for normal value.'' On January 10, 2003, the Department partially granted a request by TPC for an extension making the requested data due on January 21, 2003. On January 21, 2003, TPC submitted a revised volume and value of sales chart reflecting sales by affiliates to unaffiliated customers in the United States, the home market, and each of TPC's largest third-country markets, including Japan.

On April 4, 2003, TPC made a submission bringing to the Department's attention for the first time that the ''cases'' it reported as a unit of measure for its volume and value of sales in Exhibit A–1 referred to the number of actual cases sold, rather than the number of cases sold on a 20-ounce equivalent basis. TPC's reporting of its volume and value of sales in actual cases sold rather than on a 20-ounce equivalent basis represented a change in its reporting methodology from the previous administrative review.[11] On April 16, 2003, the Department sent a letter to TPC requesting that it revise Exhibit A–1 to reflect its volume and value of sales on a 20-ounce equivalent basis. In addition, the Department stated that [g]iven the current deadline of June 6, 2003 for the preliminary results of this review, there is now insufficient time to resolve the question of the proper comparison market and then, at a later date, to possibly request data for a new third-country market. Accordingly, we are now requiring that you provide the Department with a *complete* section B response for all of your sales to unaffiliated customers in Japan.'' In its April 16, 2003, letter to TPC the Department again warned that ''if you fail to provide this information in the time provided, we may use facts available, pursuant to section 776(a) of the Tariff Act of 1930, as amended (the Act), as we will be unable to determine the appropriate third-country market to be used as the basis for normal value.'' The requested information was to be provided to the Department no later than April 24, 2003.

On April 24, 2003, the Department received a submission from TPC in which it failed to provide both its volume and value of sales on a 20-ounce equivalent basis and a complete database of its sales to unaffiliated customers in Japan. TPC argued that the Department should permit the reporting of volume and value on the basis of actual cases sold because: (1) CPF is inventoried, booked, and sold on the basis of actual cartons; (2) the price of CPF does not vary directly based upon the quantity of CPF in each can; and (3) there is no uniform, objective method in the industry for calculating a 20-ounce equivalence. TPC also stated that [i]t was impractical to arrange for [MC and its affiliates] to report sales volumes on a 20-ounce equivalent basis that is consistent with the methodology used by TPC in the time allotted for TPC's response.'' [12] TPC did not request an extension so that it could attempt to report its volume and value of sales on a 20-ounce equivalent basis.

In regard to the section B sales database for Japan, TPC claimed that it would not be able to provide the Department with the requested information for the following reasons: (1) Due to TPC's distribution system in Japan, there are several companies with separate financial statements in many locations where invoicing takes place; (2) there has been a consolidation between two of the MC affiliates which would necessitate compiling their portion of the sales listing by hand; (3) one of TPC's affiliates has a policy of removing aggregate volume data on a 13-month rolling basis and thus the relevant data no longer exist; (4) many of the affiliates lack computerized sales data systems; (5) the complexity of the distribution system would make calculating movement and inventory expenses alone ''a gargantuan and fundamentally unmanageable task;'' (6) MC was moving offices in May and all of its accounting records had been put into boxes; and (7) the first week in May is a Japanese holiday. TPC stated that [f]or all of these reasons [i]t is regrettably unable to comply with the Department's request, even within any foreseeable extension of the current deadline.'' [13] TPC did however, request that the Department make a finding as to Japan's appropriateness as a possible third-country comparison market prior to requiring TPC to provide a complete section B sales database.

2. Applicable Statute

Section 776(a)(2) of the Act, provides that:

> * * * if an interested party or any other person—(A) withholds information that has been requested by the administering authority * * *; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested subject to subsections (c)(1) and (e) of section 782 * * *; (C) significantly impedes a proceeding under this subtitle; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this subtitle.

The statute requires that certain conditions be met before the Department may resort to the FA. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency.

If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) states that the Department shall not decline to consider information deemed ''deficient'' under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as

[10] TPC's December 11, 2002, letter at 4.

[11] *See* Memorandum from Charles Riggle, Program Manager, Office 5, to File, dated April 16, 2003.

[12] TPC's April 24, 2003, submission at 7.

[13] *Id.* at 13.

a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. Furthermore, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994). The statute provides, in addition, that in selecting from among the FA the Department may, subject to the corroboration requirements of section 776(c), rely upon information drawn from the petition, a final determination in the investigation, any previous administrative review conducted under section 751 (or section 753 for countervailing duty cases), or any other information on the record.

3. Application of FA

As described above, TPC has withheld information, failed to respond to the Department's requests for information by the deadlines established or in the form required, and has significantly impeded this review. TPC failed to properly respond to the Department's request, pursuant to section 782(d) of the Act, that it report its volume and value of sales on a uniform (20-ounce equivalent) basis as it had done in the prior review. In asking for a revised chart of TPC's volume and value of sales, the Department informed TPC in its April 16, 2003, letter that reporting the ''actual cases sold is meaningless in terms of providing a basis for comparing the volume sold between different markets'' and that ''to conduct the necessary analysis needed to determine the appropriate third-country market, it is imperative that [the Department] be provided with data that is consistent and uniform across countries.'' By not providing the Department with a revised chart of its volume and value of sales based on a consistent and uniform unit of measure, *e.g.*, on a 20-ounce equivalent basis, TPC prevented the Department from conducting the necessary analysis for determining the appropriate third-country comparison market to be used as a basis for calculating NV.

TPC's refusal to provide the Department with its volume and value of sales on a 20-ounce equivalent basis has also precluded the Department's consideration of TPC's request for a finding regarding Japan's appropriateness as a third-country comparison market.[14] Pursuant to §351.404(e) of the Department's regulations, the Secretary will generally select the third-country market on the basis of certain criteria when, as in this review, several third-country markets are viable. The ''market situation'' and product similarity issues raised by TPC in its November 23, 2003, Combined Section A Response and again in its April 24, 2003, letter to the Department, would be considered among the factors in a third-country selection analysis. However, no one factor is considered in isolation when conducting such an analysis. All the criteria under §351.404(e) of the Department's regulations, product similarity, volume of sales, and other factors, are considered together when determining the appropriateness of a third-country comparison market. Therefore, without having TPC's volume of sales reported on a 20-ounce equivalent basis, which would allow for a meaningful comparison of sales volume across countries, the Department is unable to make a finding as to the appropriateness of Japan as a third-country market.

According to the volume of sales (one of the relevant factors the Department considers under § 351.404(e) of its regulations), submitted in TPC's October 23, 2002, response at Exhibit A–1, the third-country market with the largest volume of sales was either Japan or the Netherlands. However, the Department was unable to make this determination from the outset of the review because TPC failed to report its sales to unaffiliated customers first in the Netherlands, and then in Japan. Furthermore, as detailed above, due to the delays in the progress of this review, in particular caused by TPC's reluctance to provide the Department with its volume and value of sales in Japan to unaffiliated customers, and the impending deadline for the preliminary results, the Department was forced to request a complete section B response, including a sales database for Japan. TPC failed to provide the requested response, thereby preventing the Department from calculating NV if it were eventually to find Japan to be the most appropriate third-country market.

Finally, we find that the application of section 782(e) does not overcome the respondents' failure to respond, given that the deadline for submitting the necessary information has passed. *See* sections 782(e)(1), (3) and (4). Because the information that TPC failed to report is critical for purposes of the preliminary dumping calculations, the Department must resort to facts otherwise available in reaching its preliminary results, pursuant to sections 776(a)(2)(A)–(C) of the Act.

4. Use of Adverse Inferences

We also find that the application of an adverse inference in this review is appropriate, pursuant to section 776(b) of the Act. As discussed above, TPC has significantly impeded and delayed the progress of this review by repeatedly failing to properly report its volume and value of sales to the United States, and because its home market is not viable, to each of its three largest third-country markets. After TPC's initial failure to properly report its volume and value of sales as part of its October 23, 2003, section A response, it required three additional requests by the Department, pursuant to section 782(d) of the Act, and multiple extensions, to obtain TPC's sales in Japan to unaffiliated customers. TPC eventually provided the Department with the requested data despite its claims that the information would be ''impossible'' to obtain. These delays resulted in the Department having to extend the preliminary results for this review from April 2, 2003, to June 6, 2003.[15]

TPC also failed to bring to the Department's attention in a timely manner that it was reporting its volume and value of sales on the basis of actual cartons sold, rather than on a 20-ounce equivalent basis. This represented a change in TPC's reporting methodology from the prior review and should have been identified as such by TPC in its section A response as required in the general instructions of the market economy questionnaire sent to TPC by the Department. When the Department learned of the change in TPC's reporting methodology it requested that TPC provide the Department with a chart of its volume and value of sales on a 20-ounce equivalent basis. The Department gave TPC clear instructions and warned that without the data it would not be able to conduct the necessary analysis to determine the appropriate third-country market in this review. TPC failed to provide the Department with the requested information despite its having demonstrated in the previous review

[14] While we requested that TPC report its volume and value of sales on a 20-ounce equivalent basis, consistent with its methodology in prior reviews, some respondents used other common units of measure, *e.g.* kilograms and metric tons. TPC not only failed to report sales on a 20-ounce equivalent basis, it also offered no alternative common unit of measure.

[15] *See* Memorandum from Charles Riggle, Program Manager, Office 5, to Gary Taverman, Acting Deputy Assistant Secretary, concerning an Extension of Time Limit for Preliminary Results of Review, dated March 20, 2003.

that it is capable of doing so.[16] Moreover, TPC did not attempt to provide an alternative means of reporting its sales volume in a consistent and uniform manner that would allow for a proper comparison of the volume of sales across countries. We have therefore concluded that TPC has failed to cooperate with the Department by not acting to the best of its ability, and has hampered the Department's ability to evaluate the appropriateness of the Japanese market and to make the necessary third-country comparison market determination.

Finally, TPC failed to provide the Department with a section B sales database for Japan. In doing so, TPC did not request an extension of the April 24, 2003 deadline so that it could attempt to comply with the Department's request. To the contrary, TPC stated that even if the Department were to substantially extend the deadline it would not be able to comply with the Department's request. The reasons cited by TPC for its inability to provide the requested data are inadequate. TPC has known since the beginning of this review that Japan was a potential third-country market. Therefore, TPC should have taken the appropriate steps to ensure that its affiliates would gather and retain any necessary documentation in an accessible format. TPC also requested that the Department make a finding as to Japan's appropriateness as a possible third-country comparison market prior to requiring TPC to provide a complete section B sales database. However, as previously mentioned, the Department is not able to conduct a proper third-country analysis without having its volume of sales reported in a consistent and uniform manner, which TPC has failed to provide.

For the reasons described above, we believe that TPC did not act to the best of its ability in responding to the Department's request for information and that, consequently, an adverse inference is warranted under section 776(b) of the Act. *See, e.g.*, Final Determination of Sales at Less Than Fair Value; Stainless Steel Sheet and Strip in Coils From Germany, 64 FR 30710, (June 8, 1999) and accompanying Issues and Decision Memorandum at Comment 3; see also Stainless Steel Sheet and Strip From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 6682 (February 13, 2002) and accompanying Issues and Decision Memorandum at Comment 24.

5. Selection and Corroboration of Information Used as AFA

Where we must base the entire dumping margin for a respondent in an administrative review on FA because that respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the use of inferences adverse to the interests of that respondent in choosing facts available. Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Due to TPC's failure to cooperate, we have preliminarily assigned to TPC as AFA a rate of 51.16 percent, the highest rate calculated for any respondent during any segment of this proceeding. This rate was calculated for a respondent in the less than fair value (LTFV) investigation.[17]

Because information from prior segments of the proceeding constitutes secondary information, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870 (1994).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as total AFA a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. *See, e.g.*, Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as AFA because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this review, we are not aware of any circumstances that would render the use of the margin selected for TPC as inappropriate.

Product Comparisons

We compared the EP or the CEP, as applicable, to the NV, as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. We first attempted to compare contemporaneous sales in the U.S. and comparison markets of products that were identical with respect to the following characteristics: weight, form, variety, and grade. Where we were unable to compare sales of identical merchandise, we compared products sold in the United States with the most similar merchandise sold in the comparison markets based on the characteristics listed above, in that order of priority. Where there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (CV), in accordance with section 773(a)(4) of the Act. For all respondents, we based the date of sale on the date of the invoice.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and 772(b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed be sold) before the date of importation by the producer or exporter of the subject merchandise outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold inside the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under subsections 772(c) and (d) of the Act.

For all respondents, we calculated EP and CEP, as appropriate, based on the

[16] *See* Memorandum from Charles Riggle, Program Manager, Office 5, to File, concerning Seventh Administrative Review of Canned Pineapple Fruit from Thailand, dated April 16, 2003.

[17] *See* Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit From Thailand, 60 FR 36775 (July 18, 1995).

packed prices charged to the first unaffiliated customer in the United States.

In accordance with section 772(c)(2) of the Act, we calculated the EP and CEP by deducting movement expenses and export taxes and duties from the starting price, where appropriate. Section 772(d)(1) of the Act provides for additional adjustments to CEP. Accordingly, for CEP sales we also reduced the starting price by direct and indirect selling expenses incurred in the United States and an amount for profit.

We determined the EP or CEP for each company as follows:

TIPCO

For TIPCO's U.S. sales, the merchandise was sold either directly by TIPCO or indirectly through its U.S. affiliate, TIPCO Marketing Co. (TMC), to the first unaffiliated purchaser in the United States prior to importation. We calculated an EP for all of TIPCO's sales because CEP was not otherwise warranted based on the facts of record. Although TMC is a company legally incorporated in the United States, the company does not have either business premises or employees in the United States. TIPCO employees based in Bangkok conduct all of TMC's activities out of TIPCO's Bangkok headquarters, including invoicing, paperwork processing, receipt of payment, and arranging for customs and brokerage. Accordingly, as the merchandise was sold before importation by TMC outside the United States, we have determined these sales to be EP transactions. *See* Circular Welded Non-Alloy Steel Pipe from Mexico: Final Results of Antidumping Duty Administrative Review, 65 FR 37518 (June 15, 2000) and accompanying Decision Memorandum at Hylsa Comment 3.

We calculated EP based on the packed free on board (FOB) or cost, insurance, and freight (CIF) price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses (including brokerage and handling, port charges, stuffing expenses, and inland freight), international freight, U.S. customs duties, and U.S. brokerage and handling. *See Analysis Memorandum for The Thai Pineapple Public Co., Ltd.* dated June 20, 2003 (TIPCO Analysis Memorandum).

Vita

We calculated an EP for all of Vita's sales because the merchandise was sold directly by Vita outside the United States to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise indicated. We calculated EP based on the packed FOB price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses (including brokerage and handling, terminal handling charge, bill of lading fee, customs clearance (shipping) charge, port charges, document legalization fee, stuffing expenses, inland freight and other miscellaneous charges). *See Analysis Memorandum for Vita Food Factory (1989) Co., Ltd.,* dated June 20, 2003 (Vita Analysis Memorandum).

Kuiburi

We calculated an EP for all of Kuiburi's sales because the merchandise was sold directly by Kuiburi outside the United States to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise indicated. We calculated EP based on the packed FOB or Cost and Freight (CFR) price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses and international freight. *See Analysis Memorandum for Kuiburi Fruit Canning Company Limited,* dated June 20, 2003 (Kuiburi Analysis Memorandum).

SIFCO

We calculated an EP for all of SIFCO's sales because the merchandise was sold directly by SIFCO outside the United States to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise indicated. We calculated EP based on the packed, FOB or CFR price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses including inland freight (which consisted of handling charges, port/gate charges, stuffing charges, document charges, truck costs, and U.S. brokerage and handling) and international freight. *See Analysis Memorandum for Siam Fruit Canning (1988) Co., Ltd.,* dated June 20, 2003 (SIFCO Analysis Memorandum).

Malee

For Malee's U.S. sales, the merchandise was sold indirectly through a U.S. affiliate to the first unaffiliated purchaser in the United States prior to importation. We calculated an EP for all of Malee's sales because CEP was not otherwise warranted based on the facts of record. Although Malee's U.S. affiliate is a company legally incorporated in the United States, the company merely acts as a processor of documents, including arranging for merchandise clearance in the United States and contacting the customer for pick up. Malee negotiates U.S. sales through its Thailand headquarters and issues the U.S. affiliate's invoices to the U.S. customer. Accordingly, as the merchandise was sold before importation by Malee outside the United States, we have determined these sales to be EP transactions. *See* Canned Pineapple Fruit from Thailand: Final Results of Antidumping Duty Administrative Review, 66 FR 52744 (October 17, 2001) and accompanying Decision Memo at TIPCO Comment 16. *See also* Circular Welded Non-Alloy Steel Pipe from Mexico: Final Results of Antidumping Duty Administrative Review, 65 FR 37518 (June 15, 2000) and accompanying Decision Memo at Hylsa Comment 3.

We calculated EP based on the packed CIF ex-dock price to unaffiliated purchasers in the United States. We made deductions for foreign inland movement expenses, insurance and international freight in accordance with section 772(c)(2)(A) of the Act. These include inland freight from plant to port of exportation, foreign brokerage and handling, other miscellaneous foreign port charges, international freight, marine insurance, U.S. customs brokerage, U.S. customs duty, harbor maintenance fees and merchandise processing fees. *See Analysis Memorandum for Malee Sampran Public Co., Ltd.,* dated June 20, 2003 (Malee Analysis Memorandum).

Dole

For this POR, the Department found that all of Dole's U.S. sales were properly classified as CEP transactions because these sales were made in the United States by Dole Packaged Foods (DPF), a division of Dole.

CEP was based on DPF's price to unaffiliated purchasers in the United States. We made deductions from the starting price for discounts in accordance with section 351.401(c) of the Department's regulations. We also made deductions for foreign inland movement expenses, insurance and international freight in accordance with section 772(c)(2)(A) of the Act. Because all of Dole's sales were CEP, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses associated with selling the subject merchandise in the United States, including direct and

indirect selling expenses incurred by DPF in the United States. We also deducted from the starting price an amount for profit in accordance with section 772(d)(3) of the Act. *See Analysis Memorandum for Dole,* dated June 20, 2003 (Dole Analysis Memorandum).

Normal Value

A. Selection of Comparison Markets

Based on a comparison of the aggregate quantity of home market sales and U.S. sales, we determined that, with the exception of Malee, the quantity of foreign like product each respondent sold in Thailand did not permit a proper comparison with the sales of the subject merchandise to the United States because the quantity of each company's sales in its home market was less than 5 percent of the quantity of its sales to the U.S. market. *See* section 773(a)(1) of the Act. Therefore, for all respondents except Malee, in accordance with section 773(a)(1)(B)(ii) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in each respondent's largest viable third-country market, *i.e.*, Germany for Vita, France for SIFCO, Canada for Dole, Canada for Kuiburi, and Germany for TIPCO. With respect to Malee, we based NV on the price at which the foreign like product was first sold for consumption in the home market.

B. Cost of Production Analysis

Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of comparison markets for each respondent. Because we disregarded sales that failed the cost test in the last completed review for TIPCO, TPC, Malee, Kuiburi, SIFCO, Dole, and Vita, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act.[18] As a result, we initiated an investigation of sales below cost for each of these companies. We conducted the COP analysis as described below.

1. Calculation of COP/Fruit Cost Allocation

In accordance with section 773(b)(3) of the Act, for each respondent, we calculated the weighted-average COP, by model, based on the sum of the costs of materials, fabrication, selling, general and administrative (SG&A) expenses, interest expense, and packing costs. We relied on the submitted COPs except in the specific instances noted below, where the submitted costs were not appropriately quantified or valued.

The Department's long-standing practice, now codified at section 773(f)(1)(A) of the Act, is to rely on a company's normal books and records if such records are in accordance with home country generally accepted accounting principles (GAAP) and reasonably reflect the costs associated with production of the merchandise. In addition, as the statute indicates, the Department considers whether an accounting methodology, particularly an allocation methodology, has been historically used by the company. *See* section 773(f)(1)(A) of the Act. In previous segments of this proceeding, the Department has determined that joint production costs (*i.e.*, pineapple and pineapple processing costs) cannot be reasonably allocated to canned pineapple on the basis of weight. *See* Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand, 60 FR 29553, 29561 (June 5, 1995),[19] and Notice of Final Results of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand, 63 FR 7392, 7398 (February 13, 1998). For instance, cores and shells are used in juice production, while trimmed and cored pineapple cylinders are used in CPF production. Because these various parts of a pineapple are not interchangeable when it comes to CPF versus juice production, it would be unreasonable to value all parts of the pineapple equally by using a weight-based allocation methodology.

Several respondents that revised their fruit cost allocation methodologies during the 1995/1996 POR changed from their historical net realizable value (NRV) methodology to weight-based methodologies and did not incorporate any measure of the qualitative factor of the different parts of the pineapple. As a result, such methodologies, although in conformity with Thai GAAP, do not reasonably reflect the costs associated with production of CPF. Therefore, for companies whose fruit cost allocation methodology is weight-based, we requested that they recalculate fruit costs allocated to CPF based on NRV methodology.

Consistent with prior segments of this proceeding, the NRV methodology that we requested respondents to use was based on company-specific historical amounts for sales and separable costs during the five-year period of 1990 through 1994. We made the following company-specific adjustments to the cost data submitted in this review.

SIFCO

We adjusted SIFCO's calculation of general and administrative (G&A) expenses and interest expenses as a ratio of its cost of goods sold. SIFCO included SG&A expenses, interest expenses, and packing expenses in the denominator of its original calculation of G&A and interest expenses. We recalculated the ratios after adjusting the denominator to deduct these costs. *See* SIFCO Analysis Memorandum.

Malee

In past reviews, we have not asked Malee to submit NRV because Malee allocated fruit costs on a basis that reasonably took into account qualitative differences between pineapple parts used in CPF versus juice products in its normal accounting records. For this review, it has changed the way it allocates fruit costs in its normal accounting records. However, we do not accept the methodologies Malee submitted for this review for the reasons outlined in the Malee Analysis Memorandum. Therefore, we calculated Malee's fruit costs for this review using Malee's standard allocation methodology that we have used in prior reviews.

Kuiburi

Since the first administrative review of CPF from Thailand the Department has utilized a NRV methodology to allocate pineapple fruit costs among joint products. Under this methodology, the separable costs for each joint product are subtracted from the gross revenue for each joint product. The ratio of the net realizable value of each joint product to the total net realizable value of all products is then used as the allocation base. Kuiburi reported two NRV methodologies in its response, one based on an historical period and the other based on a five-year period of 1997 through 2001. For the following reasons, we have found that Kuiburi's reported NRV methodologies were

[18] The 2000/2001 review was not completed until five months after the current review was initiated. Therefore, at the time the questionnaires were issued, we initiated the COP investigations based on the results of the completed 1999/2000 review. *See* Notice of Final Results of Antidumping Duty Administrative Review and Recession of Administrative Review in Part: Canned Pineapple Fruit From Thailand, 66 FR 52744 (October 17, 2001).

[19] This determination was upheld by the Court of Appeals for the Federal Circuit. The Thai Pineapple Public Co. v. United States, 187 F.3d 1362 (Fed. Cir. 1999) (finding that the Department's cost allocation methodology in the original investigation was reasonable and supported by substantial evidence).

unusable for the purposes of the dumping analysis. Both methodologies used by Kuiburi were based solely on revenue; that is, they did not factor in separable costs in determining the NRV for each product. Moreover, for Kuiburi's historical NRV methodology, it was unable to provide separable cost information; Kuiburi's joint cost allocation methodology did not comport with the Department's established NRV methodology. Kuiburi's NRV methodology based on a floating five-year period beginning in 1997 and ending in 2001 was unusable for dumping purposes because it was based on prices from a time period when the Department had determined that CPF was being sold at LTFV. *See* Notice of Final Results of Antidumping Duty Administrative Review: Canned Pineapple from Thailand, 63 FR 7392 (February 13, 1998). Because Kuiburi's reported NRV methodologies are unusable, we have, pursuant to section 776(a)(1) of the Act, determined to apply FA. As a facts available for Kuiburi's NRV methodology, we averaged Dole, TIPCO, SIFCO, and Vita's historical NRVs and utilized it for Kuiburi's applicable costs. *See* Kuiburi Analysis Memorandum.

2. Test of Comparison Market Sales Prices

As required under section 773(b) of the Act, we compared the adjusted weighted-average COP for each respondent to the comparison market sales of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the revised COP to the comparison market prices, less any applicable movement charges, taxes, rebates, commissions and other direct and indirect selling expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were made at prices below the COP, we do not disregard any below-cost sales of that product because the below-cost sales were not made in ''substantial quantities.'' Where (1) 20 percent or more of a respondent's sales of a given product were made at prices below the COP and such sales were made over an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act; and, (2) based on comparisons of price to weighted-average COPs for the POR, we determine that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act, we disregard the below-cost sales.

We found that for certain CPF products, Dole, Kuiburi, TIPCO, Malee, SIFCO, and Vita made comparison-market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

C. Calculation of Normal Value Based on Comparison Market Prices

We determined price-based NVs for each company as follows. For all respondents, we made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses consistent with section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. We also made adjustments, in accordance with section 351.410(e) of the Department's regulations, for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the ''commission offset''). Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. Company-specific adjustments are described below.

TIPCO

We based third-country market prices on the packed, FOB prices to unaffiliated purchasers in Germany. We adjusted for the following movement expenses: Brokerage and handling, port charges, stuffing expenses, liner expenses and foreign inland freight. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (commissions, credit expenses, and bank charges) and adding U.S. direct selling expenses (commissions, credit expenses, and bank charges).

Vita

We based third-country market prices on the packed, FOB and CFR prices to unaffiliated purchasers in Germany. We adjusted for the following movement expenses: international freight, inland freight, terminal handling charges, container stuffing charges, bill of lading fees, customs clearance charges, port charges, document legalization fees and other miscellaneous charges. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, commissions, and bank charges) and adding U.S. direct selling expenses (credit expenses, commissions, and bank charges).

SIFCO

We based third-country market prices on the packed, FOB or CFR prices to unaffiliated purchasers in France. We adjusted for foreign movement expenses and international freight. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, bank charges, and commissions) and adding U.S. direct selling expenses (credit expenses, bank charges, and commissions).

Kuiburi

We based third-country market prices on the packed, FOB and CFR prices to unaffiliated purchasers in Canada. We adjusted for foreign movement and international freight expenses. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, bank charges, and commissions) and adding U.S. direct selling expenses (credit expenses, bank charges, and commissions).

Malee

We based home market prices on the packed, delivered prices to unaffiliated purchasers in Thailand. We adjusted for foreign inland freight and warehousing. We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expenses, advertising expenses, and commissions) and adding U.S. direct selling expenses (credit expenses, advertising expenses, and commissions). We also made a level of

trade (LOT) adjustment where appropriate. *See* the *Level of Trade* section, below.

Dole

We based third-country market prices on Dole Foods of Canada Ltd.'s (DFC) prices to unaffiliated purchasers in Canada. We adjusted for foreign movement expenses and international freight. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, warranty, advertising, royalties, and commissions) and adding U.S. direct selling expenses (credit expenses, advertising, warranty, and commissions).We adjusted Dole's Canadian interest rate so that it reflects the one month prime commercial paper rate published by the Bank of Canada instead of the prime business rate which Dole had used to calculate credit expenses. In addition, because the NV LOT is more remote from the factory than the CEP LOT (*see* the *Level of Trade* section, below), and available data provide no appropriate basis to determine a LOT adjustment between NV and CEP, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act.

D. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the COM of the product sold in the United States, plus amounts for SG&A expenses, interest expenses, comparison market profit, and U.S. packing costs. We calculated each respondent's CV based on the methodology described in the *Calculation of COP* section of this notice, above. In accordance with section 773(e)(2)(A) of the Act, we used the actual amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the comparison market to calculate SG&A expenses and comparison market profit.

Where we compared U.S. price to CV, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and section 351.410 of the Department's regulations, and as described under the *Calculation of Normal Value* section above. We made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses for comparison to EP transactions in the United States. We did not compare U.S. price to CV for Kuiburi or TIPCO because all U.S. sales were compared to contemporaneous sales of identical or similar merchandise in the ordinary course of trade. For the other companies—Vita, Malee, Sifco and Dole—we compared U.S. price to CV.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. LOT is also the level of the starting price sale, which is usually from exporter to importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in the LOTs between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See* Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada, 67 FR 8781 (February 26, 2002).

In implementing these principles in this review, we obtained information from each respondent about the marketing stage involved in the reported U.S. and comparison market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying levels of trade for EP and comparison market sales, we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. We expect that, if claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.

In this review, all respondents except Malee and Dole claimed that all of their sales involved identical selling functions, irrespective of channel of distribution or market. We examined these selling functions for Vita, SIFCO, TIPCO, and Kuiburi, and found that sales activities were limited to negotiating sales prices, processing of purchase orders/contracts, invoicing, and collecting payment. There was little or no strategic and economic planning, advertising or sales promotion, technical services, technical assistance, or after-sale service performed in either market by the respondents. Therefore, for all respondents except Malee and Dole, we have preliminarily found that there is an identical LOT in the U.S. and relevant comparison market, and no LOT adjustment is required for comparison of U.S. sales to comparison market sales.

Malee

Malee reported that all of its sales made to the United States were to distributors and involved minimal selling functions on the part of Malee. Malee reported two different channels of distribution for its sales in the home market: (1) Sales through an affiliated reseller, Malee Enterprise Co. Ltd. (Malee Enterprise), which are made at a more advanced marketing stage than the factory-direct sales, and (2) factory-direct sales involving minimal selling functions and which are at a marketing stage identical to that of the CEP transactions after deductions.

In the home market, Malee reported numerous selling functions undertaken by Malee Enterprise for its resales to small wholesalers, retailers, and end-users. In addition to maintaining inventory, Malee Enterprise also handled all advertising during the POR. The advertising was directed at the ultimate consumer. Malee also reported that Malee Enterprise replaces damaged or defective merchandise and, as necessary, breaks down packed cases into smaller lot sizes for many sales. Malee made direct sales to industrial users. Malee claimed that its only selling function on direct sales was delivery of the product to the customer.

Our examination of the selling activities, selling expenses, and customer categories involved in these two channels of distribution indicates that they constitute separate levels of trade, and that the direct sales are made at the same level as Malee's U.S. sales. Where possible, we compared sales at Malee's U.S. LOT to sales at the

identical home market LOT. If no match was available at the same LOT, we compared sales at Malee's U.S. LOT to Malee's sales through Malee Enterprise at the more advanced LOT.

To determine whether a LOT adjustment was warranted, we examined the prices of comparable product categories, net of all adjustments, between sales at the two home market LOTs we had designated. We found a pattern of consistent price differences between sales at these LOTs. In making the LOT adjustment, we calculated the difference in weighted-average prices between the two different home market LOTs. Where U.S. sales were compared to home market sales at a different LOT, we reduced the home market price by the amount of this calculated LOT difference.

Dole

Dole reported six specific customer categories and one channel of distribution (sales through an affiliated reseller) for its comparison market and seven specific customer categories and one channel of distribution (sales through an affiliated reseller) for its U.S. sales. In its response, Dole claims, and the Department concurs, that all of its sales to unaffiliated comparison market customers (*i.e.*, the six customer categories) are at the same LOT because these sales are made through the same channel of distribution and involve the same selling functions.

Dole had only CEP sales in the U.S. market. Dole reported that its CEP sales were made through a single channel of distribution (*i.e.*, sales through its U.S. affiliate, Dole Packaged Foods (DPF)), which we have treated as one LOT because there is no apparent difference in the selling functions performed by DPF for the different customers. After making the appropriate deductions under section 772(d) of the Act for these CEP sales, we found that the remaining expenses associated with selling activities performed by Dole are limited to expenses related to the arrangement of freight and delivery to the port of export that are reflected in the CEP price. In contrast, the NV prices include a number of selling expenses attributable to selling activities performed by DFC in the comparison market, such as inventory maintenance, warehousing, delivery, order processing, advertising, rebate and promotional programs, warranties, and market research. Accordingly, we concluded that CEP is at a different LOT from the NV LOT, *i.e.*, the CEP sales are less remote from the factory than are the NV sales.

Having determined that the comparison market sales were made at a level more remote from the cannery than the CEP transactions, we then examined whether a LOT adjustment or CEP offset may be appropriate. In this case, Dole only sold at one LOT in the comparison market; therefore, there is no information available to determine a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above. *See* Porcelain-on-Steel Cookware from Mexico Final Results of Administrative Review, 65 FR 30068 (May 10, 2000). Further, we do not have information which would allow us to examine pricing patterns based on respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Accordingly, because the data available do not provide an appropriate basis for making a LOT adjustment, but the LOT in the comparison market is at a more advanced stage of distribution than the LOT of the CEP transactions, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act. This offset is equal to the amount of indirect expenses incurred in the comparison market not exceeding the amount of indirect selling expenses deducted from the U.S. price in accordance with 772(d)(1)(D) of the Act.

No Revocation in Part

On July 31, 2002, Dole requested that the Department revoke the antidumping duty order in part as regards Dole based on the absence of dumping pursuant to §351.222(b)(2) of the Department's regulations. Dole submitted, along with its revocation request, a certification stating that: (1) The company did not sell subject merchandise at less than NV during the POR, and that in the future it would not sell such merchandise at less than NV (*see* §351.222 (e)(1)(i)) of the Department's regulations; (2) the company has sold subject merchandise to the United States in commercial quantities during each of the past three years (*see* §351.222(e)(1)(ii)) of the Department's regulations; and (3) the company agreed to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to the revocation, sold the subject merchandise at less than NV. *see* §§351.222(b)(2)(i)(B) and 351.222(e)(1)(iii)) of the Department's regulations.

Based on a recent redetermination currently pending review, pursuant to a court remand for *Maui Pineapple Company, Ltd.* v. *United States and Dole Food Company, Dole Packaged Foods and Dole Thailand,* Slip Op. 03–42 (April 17, 2003), Court No. 01–03–01017, the margin for the fifth POR of this proceeding has risen above *de minimis. See* Final Results of Redetermination Pursuant to United States Court of International Trade Remand Order *Maui Pineapple Company, Ltd.* v. *United States and Dole Food Company, Dole Packaged Foods and Dole Thailand* Court No. 01–03–01017 filed with the court on June 16, 2003. We preliminarily determine that Dole has failed to demonstrate that it has not made sales at less than NV over the past three years. Interested parties are invited to comment in their case briefs, *inter alia,* on all of the requirements that must be met by under §351.222 of the Department's regulations in order to qualify for revocation from the antidumping duty order. Based on the above, the Department preliminarily determines that the continued application of the order with regard to Dole is necessary to offset dumping. Therefore, if these preliminary findings are adopted in our final results, we will not revoke the order with respect to merchandise produced and exported by Dole.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average margins exist for the period July 1, 2001, through June 30, 2002:

Manufacturer/exporter	Margin (percent)
Dole Food Company, Inc. (Dole)	0.49
The Thai Pineapple Public Company, Ltd. (TIPCO)	0.12
Kuiburi Fruit Canning Co. Ltd. (Kuiburi)	0.40
Thai Pineapple Canning Industry (TPC)	51.16
Siam Fruit Canning (1988) Co. Ltd. (SIFCO)	8.39
Vita Food Factory (1989) Co. Ltd. (Vita)	1.10
Malee Sampran Public Co., Ltd. (Malee)	7.60

We will disclose the calculations used in our analyses to parties to this proceeding within five days of the publication date of this notice. *See* § 351.224(b) of the Department's regulations. Interested parties are invited to comment on the preliminary results. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on a diskette. Any interested party may request a hearing within 30 days of publication of this notice. *See* § 351.310(c) of the Department's regulations. If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice.

Assessment

Pursuant to § 351.212(b) of the Department's regulations, the Department calculated an assessment rate for each importer of subject merchandise. Upon completion of this review, the Department will instruct the BCBP to assess antidumping duties on all entries of subject merchandise by those importers. We have calculated each importer's duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of examined sales. Where the assessment rate is above *de minimis*, the importer-specific rate will be assessed uniformly on all entries made during the POR.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CPF from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 24.64 percent, the ''All Others'' rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under § 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 20, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16343 Filed 6–26–03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rods From India: Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review.

EFFECTIVE DATE: June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Jonathan Herzog, Stephen Bailey, or Robert Bolling, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4271, (202) 482–1102, and (202) 482–3434, respectively.

Amendment of Final Results

On May 8, 2003, the Department of Commerce (''the Department'') published in the **Federal Register** the final results of its administrative review of stainless steel wire rods (''SSWR'') from India for the period December 1, 2000, through November 30, 2001. *See Stainless Steel Wire Rods From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 68 FR 26288 (May 15, 2003) and accompanying Issues and Decisions Memorandum (''*Final Results*'').

On May 16, 2002, petitioner Carpenter Technology Corporation timely filed ministerial error allegations, pursuant to section 351.224(c)(2) of the Department's regulations. Respondent, Mukand, Limited (''Mukand'') did not file rebuttal comments. Respondent, the Viraj Group, Limited (''the Viraj Group'') filed ministerial error allegations on May 27, 2003, and on June 2, 2003, petitioner filed rebuttal comments.

As a result of our analysis of respondent's and petitioner's comments, the Department is amending the *Final Results* in the antidumping administrative review of stainless steel wire rods from India covering the period December 1, 2000 through November 30, 2001, for Mukand and the Viraj Group.

Scope of the Review

The merchandise under review is certain stainless steel wire rods, which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are normally sold in coiled form, and are of solid cross section. The majority of SSWR sold in the United States are round in cross-section shape, annealed and pickled. The most common size 5.5 millimeters in diameter.

The SSWR subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and

7221.00.0075 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection), the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Ministerial Errors

A ministerial error is defined in § 351.224(f) of the Department's regulations as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' Section 351.224(e) of the Department's regulations provides that we ''will analyze any comments received and, if appropriate * * * correct any ministerial error by amending the final results of review * * * '' After reviewing interested parties' allegations, we have determined, in accordance with § 351.224 of the Department's regulations, that the *Final Results* includes the ministerial errors discussed below.

Mukand

Comment 1: Facts Available

Petitioner alleges that the Department understated the United States weighted-average price and entered value used to calculate the facts otherwise available rate that was applied to Mukand's constructed export price (''CEP'') sales. Specifically, petitioner argues that the Department erroneously derived the U.S. price by dividing quantity by value. In addition, petitioner states that the Department erroneously used an amount for the entered value that differs from the weighted-average entered value calculated for Mukand's EP sales. As a result, petitioner contends that these errors understate the importer-specific assessment rate. To correct these errors, petitioner argues that the Department should use the actual calculated weighted-average U.S. price and entered value of Mukand's EP sales in determining the facts available rate applied to Mukand's CEP sales.

Mukand did not file rebuttal comments to this ministerial error.

Department's Position: For the *Final Results,* the Department applied facts otherwise available to Mukand's CEP sales in the United States. *See Final Results,* at Comment 2 and 3. As facts otherwise available, the Department calculated a weighted-average U.S. price of Mukand's reported EP sales and substituted the weighted-average price for Mukand's reported CEP sales. *See Final Results,* at Comment 3. However, as the petitioner correctly contends, in calculating the facts otherwise available rate, the Department first calculated a weighted-average U.S. price, but then recalculated the U.S. price by dividing quantity by value. *See Analysis Memorandum for Mukand, Limited, for the Final Results of the 2000–2001 Adminstrative Review of Stainless Steel Wire Rods from India,* dated May 8, 2003 (''*Mukand Final Analysis Memorandum*''), at page 4. In addition, the Department erroneously calculated the entered value by using the entered value of Mukand's CEP sales, instead of the weighted-average entered value of Mukand's EP sales. *See Mukand Final Analysis Memorandum.* The result of these errors was to understate the total entered value to which facts otherwise available were to be applied, thus understating the importer-specific assessment rate.

To correct these errors, the Department has revised the final margin calculation program to apply the average net U.S. price of Mukand's EP sales to the weighted-average entered value of Mukand's EP sales. *See Analysis Memorandum for the Amended Final Results of the 2000–2001 Administrative Review of Stainless Steel Wire Rods from India: Mukand, Limited,* dated June 12, 2003 (''*Amended Mukand Final Analysis Memorandum*''), at page 1. Although these changes do not affect the overall weighted-average margin as published in the **Federal Register** notice for Mukand, they do adjust the adverse facts available applied to Mukand's CEP sales, and thus the importer-specific assessment rate.

The Viraj Group

Comment 2: Direct Material

The Viraj Group alleges that the Department double-counted sub-contracting labor in the calculation of the Viraj Group's total cost of production (''TOTCOM'') and constructed value (''CV'') for United States sales. The Viraj Group argues that the Department should not have included sub-contracting labor charges in the build up of TOTCOM and CV.

Petitioner did not provide rebuttal comments.

Department's Position: We agree with the Viraj Group. Our examination of the Department's labor calculation reveals that the programming language is not in error, but reflects the sum of the subcontracting expenses (DIRLABCV) and the direct labor expenses (DIRLABCO), as intended by the Department. However, further examination of our computer program for the *Final Results* reveals that the Department overstated the amount of total material cost required to produce a billet used in products sold in the United States. The Department inadvertently replaced the transfer price reported in the CV database with the total cost of manufacturing as reported in the Viraj Group's section D database. Rather, the Department intended to replace the transfer price reported by the Viraj Group in the CV database with the direct material cost of each respective model as it was reported in the section D database. *See Analysis for the Amended Final Results of the Antidumping Duty Administrative Review of Stainless Steel Wire Rods from India—the Viraj Group, Limited (''the Viraj Group'') (''Viraj Group Final Amended Analysis Memorandum'')* from Stephen Bailey to Robert Bolling dated June 12, 2003, at page 1. Therefore, for these amended final results of review, we have replaced the inappropriate value for material cost hard coded into our final model match and margin programs with the value of the total direct material cost found on the Viraj Group's section D database.

Comment 3: Interest Expense

The Viraj Group alleges that the Department incorrectly included interest expenses not related to the Viraj Group's actual interest cost in calculating the interest expense ratio for COP.

Petitioner argues that the Department correctly added all interest expenses when it re-calculated the Viraj Group's interest expense ratio. Petitioner maintains that in the *Final Results* the Department determined to include all interest expenses reported in the Viraj Group's financial statements in the calculation of credit expenses. *See Final Results,* at Comment 11. Petitioner further contends that the decision by the Department to include all interest expenses in calculating a revised interest expense ratio for the Viraj Group is methodological and not clerical.

Department's Position: We agree with the Viraj Group. In the *Final Results,* the Department inadvertently double-counted the Viraj Group's interest expenses in the total cost of manufacturing calculation. The Viraj Group reported on page 4 of its December 2, 2002 section D supplemental questionnaire response (''section D supplemental response'')

that it used two different methodologies to calculate its reported interest expenses in two separate interest fields, INTEX and INTEX2 for the cost database and INTEXCV and INTEXCV2 for the CV database. In the first methodology, the Viraj Group reported a reduced amount of interest expense based on its claims that it is not required to pay all of the interest owed on its bank loans due to its alleged bankruptcy protection and reorganization (''BIFR'') rehabilitation status (INTEX and INTEXCV). The second methodology reported by the Viraj Group calculates the total interest expense of the Viraj Group based on all of the loans owed without regard to the Viraj Group's alleged BIFR status (INTEX2 and INTEXCV2) as instructed in the Original Questionnaire, dated January 29, 2002, at page D–17. For the *Final Results,* the Department added these two amounts of interest to obtain the total amount of interest expense reported by the Viraj Group. *See* the model match and margin programs for the *Final Results* at lines 579 and 273, respectively. However, further examination of the record reveals that this calculation was in error because it added both the theoretical and actual interest expense amounts for the Viraj Group. The section D supplemental response demonstrates that the total amount of interest that the Viraj Group owes its banks, absent its alleged BIFR status (*i.e.,* the second methodology), is reflected in its financial statements. Therefore, for these amended final results of review, we have revised our calculation to take into account all of the interest expense that the Viraj Group owes its banks, as well as the adjustment explained in the *Preliminary Results. See Stainless Steel Wire Rods from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review,* 68 FR 1040 (January 8, 2003) (''*Preliminary Results*'') and accompanying *Analysis for the Preliminary Results of Review for Stainless Steel Wire Rod from India for 2000–2001: The Viraj Group, Limited,* at page 2. Accordingly, we did not take into account the Viraj Group's alleged BIFR status when calculating the Viraj Group's revised interest expense ratio. *See Viraj Group Final Amended Analysis Memorandum* from Stephen Bailey to Robert Bolling dated June 12, 2003, at page 2.

Amended Final Results

Pursuant to section 751(h) of the Act and in accordance with 19 CFR 351.224(e) of the Department's regulations, we are amending the *Final Results* to reflect the correction of the above-cited ministerial errors. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted average margin percent for final	Revised weighted average margin percent
Mukand	26.38	26.38
The Viraj Group	3.25	0.00

The revised cash deposit rates for Mukand and the Viraj Group shown above are effective on all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and will remain in effect until publication of the final results of the next administrative review.

Accordingly, the Department will determine, and the U.S. Bureau of Customs and Border Protection (''BCBP'') will assess, antidumping duties on all entries of subject merchandise from Mukand and the Viraj Group during the period December 1, 2000 through November 30, 2001, in accordance with these amended final results.

International Trade Commission Notification

These amended final results and notice are in accordance with sections 751(a)(1) of the Act and 19 CFR 351.221.

Dated: June 16, 2003.

Joseph Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16342 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588–054] [A-588–604]

Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan, and Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan: Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews.

SUMMARY: On April 27, 1998, the Department of Commerce (the Department) published the final results of its administrative reviews of the antidumping finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A-588–054) and the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A-588–604) for the period October 1, 1993 through September 30, 1994.[1] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 63 FR 20585 (April 27, 1998) (1993–94 TRBs from Japan). Subsequent to our publication of these final results, parties to the proceedings challenged certain aspects of our final results before the United States Court of International Trade (the CIT) and, in certain instances, before the United States Court of Appeals for the Federal Circuit (the Federal Circuit).

The CIT recently affirmed our final remand results with respect to *1993–94 TRBs from Japan*, and the time for appeal has lapsed. *See Koyo Seiko Co., Ltd. and Koyo Corporation of USA; NSK Ltd. and NSK Corporation; NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation and NTN Corporation; The Timken Company v. United States*, Consol. Court No. 98–06–02274, Slip Op. 02–96 (CIT August 22, 2002) (*Koyo II*).

[1] These final results also covered the period October 1, 1992 through September 30, 1993 (1992-93 period of review) for one respondent, Koyo Seiko Co. Ltd.

Although one party, NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation and NTN Corporation (collectively NTN), appealed certain aspects of *1993–94 TRBs from Japan* before the Federal Circuit, the Federal Circuit dismissed this appeal on April 4, 2003 pursuant to the parties' agreement. As there are now final and conclusive court decisions with respect to litigation for these parties, we are hereby amending our final results of review and have instructed the U. S. Bureau of Customs and Border Protection (BCBP) to liquidate entries subject to these reviews.

EFFECTIVE DATE: June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Deborah Scott at (202) 482–2657 or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

Below is a summary of the litigation for the 1993–1994 final results[2] for which the CIT and Federal Circuit have issued final and conclusive decisions.

On April 27, 1998, we published in the **Federal Register** our notice of the final results of administrative reviews for the 1993–94 period of review (POR) for four manufacturers/exporters and ten resellers/exporters subject to the A-588–054 finding, and five manufacturers/exporters and ten resellers/exporters subject to the A-588–604 order (*see 1993–94 TRBs from Japan*). These final results also covered the 1992–93 POR for one manufacturer/exporter subject to both the A-588–054 finding and A-588–604 order. Subsequent to the publication of these final results, the petitioner (The Timken Co. (Timken)) and three respondents, Koyo Seiko Co., Ltd. and Koyo Corporation of USA (collectively Koyo), NSK Ltd. and NSK Corporation (collectively NSK), and NTN, challenged various aspects of our final results before the CIT. *See Koyo Seiko Co., Ltd. and Koyo Corporation of USA; NSK Ltd. and NSK Corporation; NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation and NTN Corporation; and The Timken Company v. United States*, Consol. Court No. 98–06–02274, Slip Op. 02–11 (CIT February 1, 2002) (*Koyo I*). In accordance with the CIT's order in *Koyo I*, we recalculated the antidumping margins for Koyo, NSK, and NTN for subject merchandise entered between October 1, 1993 through September 30, 1994, and the antidumping margins for Koyo for subject merchandise entered between October 1, 1992 and September 30, 1993. The CIT then affirmed the Department's remand results in *Koyo II*. Subsequent to *Koyo II*, NTN challenged one aspect of the CIT's decision before the Federal Circuit. *See Koyo Seiko Co., Ltd. and Koyo Corporation of USA; NSK Ltd. and NSK Corporation; NTN Bearing Corporation of America, NTN Corporation, and American NTN Bearing Manufacturing Corporation v. United States and The Timken Company*, Federal Circuit Court No. 03–1060 (*Koyo CAFC*). The CIT and Federal Circuit have issued decisions with respect to this litigation which are now final and conclusive.

The decisions issued by the CIT and Federal Circuit with respect to the Department's final results were as follows:

- *Koyo I*, Consol. Ct. No. 98–06–02274, Slip Op. 02–11 (CIT 2002). The CIT remanded the case to the Department to: *(1) deduct Koyo's home market movement expenses from home market gross unit price for the purpose of calculating CV profit; (2) recalculate Koyo's marine insurance expenses for sales of further-processed merchandise using the correct factor reported by Koyo; (3) recalculate Koyo's CV using the commission factor provided by Koyo; (4) recalculate Koyo's CV direct selling expenses using the factor reported in Koyo's questionnaire response; (5) make corrections to programming language related to Koyo's product nomenclature; (6) recalculate Koyo's U.S. inventory carrying costs (ICCs) for sales of further-processed merchandise by applying the appropriate ICC factors to the landed cost for the 1992–93 POR and the appropriate ICC factors to the cost of manufacture (COM) for the 1993–94 POR; (7) apply the correct general and administrative (G&A) expense factor in the calculation of NSK's cost of production (COP); and (8) correct a programming error with respect to NTN's sales by applying the revised indirect selling expense ratio only to NTN's purchase price sales.*
- *Koyo II*, Consol. Ct. No. 98–06–02274, Slip Op. 02–96 (CIT August 22, 2002). *The CIT affirmed the Department's remand results and dismissed the litigation for Consol. Court No. 98–06–02274.*
- *Koyo CAFC*, No. 03–1060 (Fed. Cir. April 4, 2003). *Pursuant to the parties' agreement, the Federal Circuit dismissed NTN's appeal of the CIT's decision in the 98–06–02274 litigation.*

As there are now final and conclusive court decisions with respect to the 98–06–02274 litigation, we are amending our final results of review for Koyo, NSK and NTN based on our recalculation of each respondent's rates pursuant to the remand. The amended final results margins for Koyo are 37.80 percent and 29.94 percent for 1992–93 and 1993–94, respectively, in the A-588–054 review and 38.76 percent and 40.49 percent for 1992–93 and 1993–94, respectively, in the A-588–604 review. The amended final results margins for NSK are 11.24 percent in the A-588–054 review and 12.78 percent in the A-588–604 review. The amended final results margin for NTN in the A-588–604 review is 21.97 percent.[3] We have issued instructions to BCBP to liquidate entries of subject merchandise made by Koyo, NSK and NTN during the relevant periods pursuant to these amended final results.

In addition, as we have not amended the margins of any of the remaining manufacturers/resellers/exporters subject to the 1993–94 administrative reviews of TRBs from Japan, we have issued instructions to BCBP to liquidate entries of subject merchandise based on the rates published in *1993–94 TRBs from Japan.*

AMENDMENT TO FINAL DETERMINATIONS

Pursuant to 19 U.S.C. 1516(f), we are now amending the final results of the 1993–94 administrative reviews of the antidumping finding and duty order on TRBs from Japan. The amended weighted-average margins are:

[2] These final results also covered the period October 1, 1992 through September 30, 1993 for one respondent, Koyo Seiko Co. Ltd.

[3] The A-588-054 antidumping finding does not cover TRBs manufactured by NTN.

FOR THE A-588–054 REVIEW:

Manufacturer/Exporter	Period of Review	Weighted-Average Margin (%)	
		Original:	Revised:
Koyo Seiko	10/1/1992 - 9/30/1993	38.07	37.80
Koyo Seiko	10/1/1993 - 9/30/1994	35.27	29.94
NSK	10/1/1993 - 9/30/1994	11.25	11.24

FOR THE A-588–604 REVIEW:

Manufacturer/Exporter	Period of Review	Weighted-Average Margin (%)	
		Original:	Revised:
Koyo Seiko	10/1/1992 - 9/30/1993	40.12	38.76
Koyo Seiko	10/1/1993 - 9/30/1994	41.04	40.49
NSK	10/1/1993 - 9/30/1994	12.78	12.78
NTN	10/1/1993 - 9/30/1994	20.80	21.97

Accordingly, the Department has determined and BCBP has assessed appropriate antidumping duties on entries of the subject merchandise made by firms covered by the review of the periods listed above. The Department has issued assessment instructions directly to BCBP.

Dated: June 4, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16340 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427–825, A-580–853, A-588–863]

Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons From France, Japan and the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of Antidumping Duty Investigation.

EFFECTIVE DATE: June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Julio Fernandez (France) at 202–482–0961, Alex Villanueva (Japan) at 202–482–3208, Fred Baker (South Korea) at 202–482–2924 or Robert James at 202–482–0649, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Initiation of Investigation

The Petition

On May 30, 2003, the Department of Commerce (the Department) received a petition filed in proper form by International Imaging Materials, Inc. (IIMAK, or petitioner). On June 2, 13, and 18, 2003, petitioner submitted clarifications of the petition. IIMAK is a domestic producer of thermal transfer ribbons. In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Tariff Act), the petitioner alleges imports of thermal transfer ribbon from France, Japan and the Republic of Korea (South Korea) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act, and that such imports are materially injuring, or threatening material injury to, the U.S. industry.

The Department finds the petitioner filed its petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Tariff Act, and it has demonstrated sufficient industry support with respect to the investigations it is presently seeking. *See*, ''Determination of Industry Support for the Petitions,'' below.

Scope of the Investigations

These investigations cover wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit (''jumbo'') form originating from France, Japan or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L*<35, -20>a*<35 and -40<b*<31, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.

The petition does not cover pure resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90. The tariff classifications are provided for convenience and Customs purposes; however, the written description of the scope of the investigation is dispositive.

As discussed in the preamble to the Departments regulations, we are setting aside a period for parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. This period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties

prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Tariff Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Tariff Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Tariff Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Tariff Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (the Commission), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the Commission must apply the same statutory definition regarding the domestic like product (section 771(10) of the Tariff Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642–44 (Ct. Int'l Trade 1988) (''the ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV'').

Section 771(10) of the Tariff Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In determining whether the domestic petitioner has standing, we considered the industry support data contained in the petition with reference to the domestic like product as defined above in the ''Scope of the Investigations'' section. To establish standing, petitioner provided its actual production data for the domestic like product for the year 2002. To estimate 2002 production for all other domestic thermal transfer ribbon producers named in the petition, petitioner estimated production data by several means. These estimated production data were added to the actual production data detailed above to arrive at total estimated U.S. production of thermal transfer ribbon for the year 2002 in thousands of square inches (msi). See Petition at Exhibit A-1 and Exhibit A-2 containing an affidavit by an IIMAK thermal transfer ribbon division official describing how the production data were estimated.

Using the data described above, the share of total estimated U.S. production of thermal transfer ribbon in 2002 represented by petitioner (there were no other supporting parties) equals over 50 percent of total domestic production. Therefore, the Department finds the domestic producers who support the Petition account for at least 25 percent of the total production of the domestic like product. In addition, as no domestic producers have expressed opposition to the Petition, the Department also finds the domestic producers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.

With regard to the domestic like product, petitioner's definition of the like product is identical to the scope of these investigations. *See* Petition at 69. Based on our analysis of the information submitted in the Petition we have determined there is a single domestic like product, thermal transfer ribbons in slit or jumbo form, which is defined further in the ''Scope of the Investigations'' section above, and we have analyzed industry support in terms of that domestic like product. For more information on our analysis and the data upon which we relied, *see* the Antidumping Investigation Initiation Checklist (Initiation Checklist), dated June 19, 2003, at ''Industry Support,'' and Appendix 1.

Therefore, we find that petitioners have met the requirements of section 732(c)(4)(A) of the Tariff Act.

Constructed Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The source or sources of data for the deductions and adjustments relating to U.S. and foreign market prices and cost of production and constructed value have been accorded treatment as business proprietary information. Petitioner's sources and methodology are discussed in greater detail in the business proprietary version of the Petition and in our Initiation Checklist. We corrected certain information contained in the petition's margin calculations; these corrections are set forth in detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Tariff Act in our preliminary or final determinations, we may re-examine this information and revise the margin calculations, if appropriate.

Period of Investigation

The period of investigation for these cases will be April 1, 2002 through March 31, 2003, or the four most-recently completed fiscal quarters as of the month preceding the month in which the petition was filed. *See* 19 CFR 351.204(b).

France

Constructed Export Price

To calculate constructed export price (CEP) petitioner obtained pricing information for certain wax and wax/resin products sold to unaffiliated parties in the United States, and comparable to the products sold in the home market. Petitioner made certain adjustments to this selling price for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, petitioner obtained price quotes as a

basis for its estimation of certain expenses, and, where appropriate, also based its estimates for such expenses on actual figures incurred in the course of its own selling activities. Petitioner indicates this approach is a reasonable and appropriate way to calculate CEP because the selling process for thermal transfer ribbon is uniform within the United States, and the selling activities performed by respondents' U.S. affiliates for their U.S. customers are largely the same as those performed by petitioner for its customers in the United States. *See* Petition at 49. Where known differences between petitioner's and respondents' operations exist, petitioner adjusted selling expenses accordingly to account for such differences.

Petitioner adjusted the U.S. prices for ocean freight, marine insurance, U.S. duties, packaging expenses, indirect selling expenses incurred by the respondent's U.S. affiliate, inventory carrying costs in transit, and a figure for CEP profit. Where possible, these expenses were based upon petitioner's actual experience; where petitioner lacked such data, petitioner made reasonable estimates as described above. Petitioner based CEP profit for the respondent, Armor SA, upon the experience of Dai Nippon Printing, a Japanese TTR producer. Petitioner explained this was a reasonable surrogate figure because no sector-specific profit data are available for the French TTR industry. With respect to selling expenses incurred in France, petitioner indicates there is no basis to believe that such expenses would differ for thermal transfer ribbon destined for the United States versus merchandise sold in the home market. Therefore, petitioner claims it is reasonable to consider such expenses to be equal for sales to the United States and in the home market. We have accepted this methodology for purposes of this initiation.

Normal Value

With respect to normal value (NV), petitioner relied on foreign market research to obtain information on the prices of two grades of thermal transfer ribbon sold in the French market. This sales information is contemporaneous with the pricing information used as the basis for CEP, and represents products which are either identical or similar to those sold in the United States. *See* Petition Exhibits A-7 and A-8.

The petitioner also provided information demonstrating reasonable grounds to believe or suspect that sales of TTR in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Tariff Act, and requested that the Department initiate a country-wide sales-below-cost investigation.

Pursuant to section 773(b)(3) of the Tariff Act, COP consists of cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing. The petitioner calculated COM based on the experience of a U.S. TTR producer, adjusted for known differences based on petitioner's knowledge of French TTR producers' operations and other publically available data. *See* Petition at 64 and Exhibit B-14, and Petitioner's June 13, 2003 submission at 20 through 22 and Exhibit B-27. According to the petitioner, these are the most specific cost data reasonably available. The U.S. producer's figures are reasonable to use to estimate French producers' costs because, according to the petitioner, U.S. and French producers have similar production processes. Petitioner states it was unable to obtain French producers' cost of production data. Petitioner determined French producers' raw materials cost, variable and fixed overhead, SG&A and packing cost based on the costs incurred by the U.S. producer and adjusted for the known differences. *See id*. Petitioner valued labor costs based on the U.S. producer's production experience adjusted for known differences and French hourly wages in U.S. dollars as posted on the Department's web site.

Based upon a comparison of the price of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Tariff Act. Accordingly, the Department is initiating a country-wide cost investigation.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Tariff Act, the petitioners also based NV for sales in France on constructed value (CV). *See* Petitioner's June 18 submission. The petitioner calculated CV using the same COM, SG&A and interest expense figures used to compute the COP. Consistent with 773(e)(2) of the Tariff Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon amounts reported for the Japanese company Dai Nippon Printing's printing business segment for the year ending March 2002. Petitioner states it was unable to obtain specific and detailed financial data for Armor, the French TTR company and believes it reasonable to use the rate for Dai Nippon Printing as a surrogate for a French TTR company. However, we do not believe the Dai Nippon Printing profit rate is a reasonable surrogate for profit on the sales in the ordinary course of trade in France for purposes of this initiation. For initiation purposes, we have recalculated CV without regard to profit, as we have no acceptable surrogate profit rate on the record. Should the need arise to use the profit rate suggested by the petitioners as facts available under section 776 of the Tariff Act in our preliminary or final determination, we may reexamine the information developed on the French TTR industry and, if appropriate, revise the margin calculations.

The estimated dumping margin for subject merchandise from France, based on comparisons of CEP and NV, range between 16.5 and 60.6 percent. The estimated margin for France based on a comparison of CEP to CV is 57.7 percent.

Japan

Constructed Export Price

To calculate CEP petitioner obtained pricing information for certain wax and wax/resin products sold to unaffiliated parties in the United States, and comparable to the products sold in the home market. Petitioner made certain adjustments to this selling price for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, petitioner obtained price quotes as a basis for its estimation of certain expenses, and, where appropriate, also based its estimates for such expenses on actual figures incurred in the course of its own selling activities. Petitioner indicates this approach is a reasonable and appropriate way to calculate CEP because the selling process for thermal transfer ribbon is uniform within the United States, and the selling activities performed by respondents' U.S. affiliates for their U.S. customers are largely the same as those performed by petitioner for its customers in the United States. *See* Petition at 49. Where known differences between petitioner's and respondents' operations exist, petitioner adjusted selling expenses accordingly to account for such differences.

Petitioner adjusted the U.S. prices for ocean freight, marine insurance, U.S. duties, packaging expenses, indirect selling expenses incurred by a

respondent's U.S. affiliate, inventory carrying costs in transit, and a figure for CEP profit. *See* Petition at 50 through 55, and Exhibit B-14. Where possible, these expenses were based upon petitioner's actual experience; where petitioner lacked such data, petitioner made reasonable estimates as described above. Petitioner based CEP profit upon the experience of Dai Nippon Printing, a Japanese TTR producer.

With respect to selling expenses incurred in Japan, petitioner indicates there is no basis to believe that such expenses would differ for thermal transfer ribbon destined for the United States versus merchandise sold in the home market. Therefore, petitioner claims it is reasonable to consider such expenses to be equal for sales to the United States and in the home market. We have accepted this methodology for purposes of this initiation.

Normal Value

In calculating NV, the petitioner relied upon data provided by foreign market researchers on home market prices of wax and wax resin TTR products. *See* Petition at Exhibit B-10. This sales information is contemporaneous with the pricing information used as the basis for CEP and represents products which are either identical or similar to those sold in the United States. No other adjustments were made to NV, because additional information on home market adjustments was not reasonably available to petitioner.

The estimated dumping margin for subject merchandise from Japan, based on comparisons of CEP and NV, range between 65.9 and 147.3 percent.

South Korea

Constructed Export Price

To calculate CEP petitioner obtained pricing information relating to sales of certain wax products sold to unaffiliated parties in the United States, and comparable to the product sold in the home market. Petitioner made certain adjustments to these selling prices for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, petitioner obtained price quotes as a basis for its estimation of certain expenses, and, where appropriate, also based its estimates for such expenses on actual figures incurred in the course of its own selling activities. Petitioner indicates this approach is a reasonable and appropriate way to calculate CEP because the selling process for thermal transfer ribbon is uniform within the United States, and the selling activities performed by respondents' U.S. affiliates for their U.S. customers are largely the same as those performed by petitioner for its customers in the United States. *See* Petition at 49. Where known differences between petitioner's and respondents' operations exist, petitioner adjusted selling expenses accordingly to account for such differences.

Petitioner adjusted the U.S. prices for ocean freight, marine insurance, U.S. duties, packaging expenses, indirect selling expenses incurred by the respondents' U.S. affiliates, inventory carrying costs in transit, and a figure for CEP profit. Where possible, these expenses were based upon petitioner's actual experience; where petitioner lacked such data, petitioner made reasonable estimates as described above. CEP profit for the respondent was based upon the experience of Dai Nippon Printing, a Japanese TTR producer. Petitioner explained this was a reasonable surrogate figure because no sector-specific profit data are available for the South Korean TTR industry. With respect to selling expenses incurred in South Korea, petitioner indicates there is no basis to believe that such expenses would differ for thermal transfer ribbon destined for the United States versus merchandise sold in the home market. Therefore, petitioner claims it is reasonable to consider such expenses to be equal for sales to the United States and in the home market. We have accepted this methodology for purposes of this initiation.

Normal Value

With respect to NV, the petitioner relied upon foreign market research to obtain information relating to home market prices for a grade of TTR that is almost identical to the grade for which petitioners obtained U.S. pricing data. Petitioners made no deductions from the home market selling price because estimates of home market expenses were not reasonably available to petitioner. *See* Petition at 50. Thus, petitioners made no deductions for expenses incurred in Korea in its calculations of either net U.S. price or net home market price.

The estimated dumping margin for subject merchandise from South Korea, based on comparisons of CEP and NV, range between 56.6 and 59.9 percent.

Fair Value Comparisons

Based on the data provided by petitioner, there is reason to believe imports of TTR from France, Japan and South Korea are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

With respect to France, Japan and South Korea, petitioner alleges the U.S. industry producing the domestic like product is being materially injured, or threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV.

Petitioner contends the industry's injured condition is evident in examining net operating income, profit, net sales volumes, production employment, as well as inventory levels, and reduced capacity utilization. *See* Petition at 84 *et seq.* Petitioner asserts its share of the market has declined from 2000 to 2002. Finally, petitioner notes one TTR manufacturer went out of business altogether in 2001, while another closed one of its coating facilities. For a full discussion of the allegations and evidence of material injury, *see* the Initiation Checklist at Appendix II.

Initiation of Antidumping Investigations

Based on our examination of the Petition covering TTR, we find it meets the requirements of section 732 of the Tariff Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of TTR from France, Japan and South Korea are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Tariff Act, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Tariff Act, a copy of the public version of the Petition has been provided to representatives of the governments of France, Japan and South Korea. We will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided in section 19 CFR 351.203(c)(2).

Commission Notification

The International Trade Commission will preliminarily determine no later than July 14, 2003, whether there is reasonable indication that imports of TTR from France, Japan and South Korea are causing, or threatening, material injury to a U.S. industry. A

negative Commission determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Tariff Act.

Dated: June 19, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16341 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

ENVIRONMENTAL PROTECTION AGENCY

National Oceanic and Atmospheric Administration

Coastal Nonpoint Pollution Control Program: Approval Decision on the Commonwealth of the Northern Mariana Islands Coastal Nonpoint Pollution Control Program

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce and the U.S. Environmental Protection Agency.

ACTION: Notice of intent to approve the commonwealth of the Northern Mariana Islands Coastal Nonpoint Program.

SUMMARY: Notice is hereby given of the intent to fully approve the Commonwealth of the Northern Mariana Islands Coastal Nonpoint Pollution Control Program (coastal nonpoint program) and of the availability of the draft Approval Decisions on conditions for the Commonwealth of the Northern Mariana Islands coastal nonpoint program. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires States and Territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal States and Territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. NOAA and EPA conditionally approved the Commonwealth of the Northern Mariana Islands coastal nonpoint program on October 3, 1997. NOAA and EPA have drafted approval decisions describing how the Commonwealth of the Northern Mariana Islands has satisfied the conditions placed on its program and therefore has a fully approved coastal nonpoint program.

NOAA and EPA are making the draft decisions for the Commonwealth of the Northern Mariana Islands coastal nonpoint program available for a 30-day public comment period. If comments are received, NOAA and EPA will consider whether such comments are significant enough to affect the decision to fully approve the program.

Copies of the draft Approval Decisions can be found on the NOAA Web site at *http://www.ocrm.nos.noaa.gov/czm/* or may be obtained upon request from: Helen Farr, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, phone (301) 713–3155, x150 email *helen.farr@noaa.gov.*

DATES: Individuals or organizations wishing to submit comments on the draft Approval Decisions should do so by July 28, 2003.

ADDRESSES: Comments should be made to: John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, phone (301) 713–3155, x188, email *john.king@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Helen Farr, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, phone (301) 713–3155, x150, email *helen.farr@noaa.gov.*

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: June 24, 2003.

Jamison S. Hawkins,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

G. Tracy Mehan, III,

Assistant Administrator, Office of Water Environmental Protection Agency.

[FR Doc. 03–16261 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–00–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

June 23, 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 27, 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 for carryforward used, and the recrediting of unused carryforward.

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 65339, published on October 24, 2002.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 23, 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 18, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or

manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on June 27, 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]
237	476,567 dozen.
335	447,028 dozen.
336/636	810,325 dozen.
340/640	5,294,699 dozen.
341	4,248,917 dozen.
351/651	1,300,772 dozen.
352/652	17,512,882 dozen.
363	45,025,023 numbers.
641	1,163,486 dozen.
645/646	699,107 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 of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–16300 Filed 6–26–03; 8:45 am]

BILLING CODE 3510–DR–S

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Privacy Act of 1974; Notice of Amended Systems of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Court Services and Offender Supervision Agency for the District of Columbia (CSOSA) gives notice of effective dates, nomenclature changes, minor amendments, and corrections for the systems of records which it had published in the **Federal Register** on March 15, 2002 (67 FR 11816), for itself and for the Pretrial Services Agency, an independent entity within CSOSA.

The nomenclature changes consist of replacing the phrase ''DC City Council'' with the phrase ''DC Council'' and using the broader term ''community corrections'' as a replacement for phrases using the terms ''probation'' and ''parole'' in various CSOSA systems of records.

Systems of records CSOSA–9 through CSOSA–12 and CSOSA–14 through CSOSA–16 are being amended to incorporate a technically more correct description for the data element ''Categories of Individuals Covered by the System.'' These systems of records will now use the phrase ''Individuals currently or formerly under Agency supervision.'' This phrase replaces various formulations using the term ''offender.'' These formulations would not cover an individual under supervision by virtue of a civil protection order. As a conforming change, other references in these systems of records to ''offenders'' are changed to ''individuals.''

CSOSA–9 is amended to include an additional routine use covering disclosures to law enforcement agencies for the purpose of assisting in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency, to limit disclosure to courts to the extent necessary to accomplish assigned duties in any criminal matter, and to broaden the reference to legal authorities that prohibit release of information by replacing the phrase ''by 42 CFR part 2'' with the phrase ''by law or regulation.'' The broader reference to legal authorities is necessary to cover pertinent District of Columbia statutes governing confidentiality of HIV/AIDS and mental health records. CSOSA–15 and CSOSA–16 are also amended to broaden the reference to legal authorities that prohibit release of information.

CSOSA–11 is amended to include three additional retrieval elements, an additional routine use covering disclosures to law enforcement agencies for the purpose of assisting in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency, to replace the term ''client'' with the term ''individual,'' and to remove typographical errors.

CSOSA–14 is removed and reserved. The information to be maintained under that system of record is now maintained under CSOSA–11.

CSOSA–18 is amended to include an additional routine use covering disclosures to law enforcement agencies for the purpose of assisting in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency. In addition to the various nomenclature changes noted above, CSOSA–18 is also amended to replace the phrase ''under CSOSA supervision'' with the phrase ''listed on the Sex Offender Registry'' in paragraph A of the routine uses data element. Because an individual listed on the Sex Offender Registry is not necessarily under CSOSA supervision, it is more accurate to use the revised phrase.

CSOSA/PSA–1, CSOSA/PSA–2, and CSOSA/PSA–6 are amended by adjusting the retention period to five years (rather than 20 years) after disposition of charges, by adding a routine use allowing disclosure in certain instances where PSA becomes aware of a violation or potential violation of civil or criminal law or regulation (the same routine use is being added to PSA–3 as discussed below), and by revising the routine use for providing information to courts, court personnel, prosecutors, defense attorneys, and certain others. This routine use is being revised to make it clear that the disclosure is being made to permit the recipient to accomplish his or her assigned duties in any criminal matter and to replace specific excluded information with a more general prescription (''* * * unless otherwise precluded by law or regulation''). The routine use for law enforcement agencies for these same three systems is being modified to clarify that disclosures may be made to criminal law enforcement agencies rather than to civil and criminal law enforcement agencies. CSOSA/PSA–1 is further amended by correcting the reference to ''attorney of record.'' CSOSA/PSA–6 is further amended by removing the phrase, ''Probation and Parole'' from the System Name and by removing redundancy from the description of the categories of individuals covered by the system.

CSOSA/PSA–3 is amended by correcting a reference to the attorney of record, by amending the routine use for disclosures in paragraph B to make it clear that such disclosures are made to criminal law enforcement agencies rather than to civil or criminal law enforcement agencies, and by adding a new routine use permitting disclosure to the appropriate Federal, state, local, foreign, or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order where PSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

In accordance with title 5 U.S.C. 552a(e)(4) and (11) CSOSA provided the public with a 30-day period in which to comment on the routine uses of a new system; the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, was given a 40-day period in which to review the system. No comment was received. The routines uses for the published systems of records accordingly became effective April 26, 2002.

In accordance with Privacy Act requirements, CSOSA has provided a report on the amended systems to OMB and Congress.

CSOSA will accept further comment on its systems of records as amended and corrected below by this document. Therefore, please submit any comment by July 28, 2003. The public, OMB and Congress are invited to send written comments to Renee Barley, FOIA Officer, Office of the General Counsel, Court Services and Offender Supervision Agency, 633 Indiana Avenue, NW., Washington, DC 20004. The amended systems of records will be effective, as proposed, on August 6, 2003, unless CSOSA determines, upon review of the comments received, that changes should be made. In that event, CSOSA will publish a revised notice in the **Federal Register**.

The specific nomenclature change, amendments, and corrections are given below.

CSOSA–1, CSOSA–2, and CSOSA–19

1. Remove the phrase ''D.C. City Council'' every place it appears in CSOSA–1, CSOSA–2, and CSOSA–19 and add the phrase ''D.C. Council'' in its place.

2. In CSOSA–9 make the following changes:

a. In data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

i. Remove the phrase ''D.C. City Council'' and the phrase ''a current or former offender'' in paragraph A and add the phrases ''D.C. Council'' and ''an individual currently or formerly'' in their respective places;

ii. Remove the phrase ''by 42 CFR part 2'' every place it appears in paragraphs B through E, G, and H and add the phrase ''by law or regulation'' in its place;

iii. Remove the word ''offenders'' in paragraph E and add the word ''individuals'' in its place;

iv. Revise paragraph F as set forth below;

v. Remove the word ''offender's'' in paragraph G and add the word ''individual's'' in its place;

vi. Add a new paragraph I as set out below.

b. Revise data element ''Categories of Individuals Covered by the System'' as set out below.

c. In data element ''Retrievability'' remove the word ''offender'' and add the word ''individual'' in its place.

d. In data element ''Retention and Disposal'' remove the words ''parole and/or probation''.

e. In data element ''Record Source Categories'' remove the word ''Offender'' and the phrase ''probation agencies'' and add the words ''Individual under CSOSA supervision'' and the phrase ''community corrections entities'' in their respective places.

CSOSA–9

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly under Agency supervision.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

F. To provide information relating to individuals under CSOSA supervision to Federal, local and state courts, court personnel and community corrections officials to the extent necessary to permit them to accomplish their assigned duties in any criminal matter unless prohibited by law or statute.

* * * * *

I. A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency.

* * * * *

3. In CSOSA–10 make the following changes:

a. In data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

i. Remove the phrase ''D.C. City Council'' and the phrase ''a current and/or former offender, supervised by CSOSA'' in paragraph A and add the phrases ''D.C. Council'' and ''an individual currently or formerly under CSOSA supervision'' in their respective places;

ii. Remove the word ''offenders'' in paragraph E and add the word ''individuals'' in its place;

iii. Remove the phrase ''probation officials'' in paragraph F and add the phrase ''community corrections officials'' in its place.

b. Revise data element ''Categories of Individuals Covered by the System'' to read as set forth below.

c. In data element ''Retention and Disposal'' remove the words ''parole and/or probation''.

d. In data element ''Record Source Categories'' remove the word ''Offender'' and the phrase ''probation agencies'' and add the words ''Individual under CSOSA supervision'' and the phrase ''community corrections entities'' in their respective places.

CSOSA–10

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly under Agency supervision.

* * * * *

4. In CSOSA–11, make the following changes:

a. In data element ''Authority for Maintenance of the System,'' revise the words ''to USPC'' to read ''the USPC''.

b. In data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

i. Remove the word ''offender'' in paragraph A and add in its place the word ''individual'';

ii. redesignate paragraphs E through G as paragraphs G through I;

iii. add new paragraphs E and F to read as set forth below;

iv. Remove the words ''on parole, probation, or supervised release'' from newly designated paragraph G and add the words ''under supervision'' in their place;

v. Remove the word ''offenders'' from newly designated paragraph H and add the word ''individuals'' in its place.

c. Revise the data elements ''Categories of Individuals Covered by the System'' and ''Retrievability'' to read as set forth below.

d. In data element ''Categories of Records in the System'' remove the words ''client'' and ''client's'' from items 1, 2, 3, 4, 5, 16, 22, 28, 29, 30, and 31, and add in their respective places the word ''individual'' or ''individual's''; in item 23, remove the words ''parolee/probationer'' and add the word ''individual'' in their place; in item 28, remove the words ''parole/probation'' and add the words ''community corrections'' in their place.

e. In data element ''Purpose(s)'' remove the words ''compliance with conditions of release of parolees, probationers, and supervised releasees,'' and add in their place the words ''individual's compliance with the conditions of supervision,''.

f. In data element ''Record Source Categories'' remove the word ''Offender'' and the phrase ''probation services'' and add the words ''Individual under CSOSA supervision'' and the phrase ''community corrections entities'' in their respective places.

CSOSA–11

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly under Agency supervision.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

E. A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency.

F. To provide information relating to individuals under Agency supervision to Federal, local and state courts, court personnel and community corrections officials to the extent necessary to permit them to accomplish their assigned duties in any criminal matter unless prohibited by law or statute.

* * * * *

RETRIEVABILITY:

Agency staff may retrieve information by individual identifiers such as name, CSOSA number, DCDC number, PDID number, Social Security Number, Superior Court number, FBI number, Interstate Compact number, and Police Service Area number, or in combination with search queries on other identification data record fields.

Other routine users may retrieve information by individual identifiers such as name, CSOSA number, DCDC number, PDID number, Social Security Number, Superior Court number, FBI number, Interstate Compact number, and Police Service Area number.

* * * * *

5. In CSOSA–12 make the following changes:

a. In data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

i. Remove the phrases ''DC City Council'' and ''a current or former offender'' in paragraph A and add the phrase ''DC Council'' and the phrase ''an individual currently or formerly'' in their respective places;

ii. Remove the word ''offenders'' in paragraph E and add the word ''individuals'' in its place;

iii. Remove the phrases ''DC offenders'' and ''probation officials'' in paragraph F and add the phrase ''individuals under CSOSA supervision'' and the phrase ''community corrections officials'' in their respective places.

b. Revise data element ''Categories of Individuals Covered by the System'' to read as set forth below.

c. In data element ''Record Source Categories'' remove the word ''Offender'' and add the phrase ''Individual under Agency supervision'' in its place.

CSOSA–12

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly under Agency supervision.

* * * * *

6. In CSOSA–13 in data element ''Routine Uses of Records Maintained in the System * * *'', in paragraph A remove the phrases ''DC City Council'' and ''offender (current and/or former)'' and add the phrase ''DC Council'' and the phrase ''individual currently or formerly'' in their respective places.

7. Remove and reserve CSOSA–14.

8. In CSOSA–15, make the following changes:

a. In data element ''Purpose(s)'' remove the word ''offenders'' and add the word ''individual'' in its place.

b. In data element ''Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Use'':

i. Remove the phrases ''DC City Council'' and ''a current or former offender'' in paragraph A and add the phrase ''DC Council'' and the phrase ''an individual'' in their respective places;

ii. Remove the phrase ''by 42 CFR part 2'' every place it appears in paragraphs B through H and add the phrase ''by law or regulation'' in its place;

iii. In paragraph E, remove the word ''offenders'' and add the word ''individuals'' in its place;

iv. In paragraph F, remove the word ''defendants'' and add the phrase ''individuals under CSOSA supervision'' in its place and remove the phrase ''probation officials'' and add the phrase ''community corrections officials'' in its place.

c. In data element ''Record Source Categories'' remove the word ''Offender'' and add the phrase ''Individual under Agency supervision'' in its place.

d. Revise data element ''Categories of Individuals Covered by the System'' to read as follows:

CSOSA–15

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly under Agency supervision.

* * * * *

9. In CSOSA–16 make the following changes:

a. In data element ''Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Use'':

i. Remove the phrases ''DC City Council'' and ''a current or former offender'' in paragraph A and add the phrase ''DC Council'' and the phrase ''an individual under Agency supervision'' in their respective places;

ii. Remove the phrase ''by 42 CFR part 2'' every place it appears in paragraphs B through H and add the phrase ''by law or regulation'' in its place;

iii. In paragraph E remove the word ''offenders'' and add the word ''individuals'' in its place;

iv. In paragraph F remove the phrases ''DC offenders'' and ''probation officials'' and add the phrase ''individuals under Agency supervision'' and the phrase ''community corrections officials'' in their respective places.

b. Revise the data elements ''Categories of Individuals Covered by the System'' and ''Retrievability'' to read as set forth below.

c. In data element ''Record Source Categories'' remove the word ''Offender'' and the phrase ''probation services'' and add the phrase ''Individual under Agency supervision'' and the phrase ''community corrections entities'' in their respective places.

CSOSA–16

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly under Agency supervision.

* * * * *

RETRIEVABILITY:

Information can be retrieved by the name of the individual and the DCDC or PDID assigned to the individual.

* * * * *

10. In CSOSA–17 make the following changes in data element ''Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Use'':

a. Remove the phrase ''DC City Council'' in paragraph E and add the phrase ''DC Council'' in its place;

b. In paragraph G remove the phrase ''probation officials'' and add the phrase ''community corrections officials'' in its place.

11. In CSOSA–18 make the following changes:

a. In data element ''Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Use'':

i. Remove the phrases ''DC City Council'' and ''under CSOSA supervision'' in paragraph A and add the phrase ''DC Council'' and the phrase ''listed on the Sex Offender Registry'' in their respective places;

ii. In paragraph F remove the phrases ''DC defendant'' and ''parole and/or probation'' and add the word ''offender'' and the words ''community corrections'' in their respective places;

iii. Redesignate paragraph H as paragraph I, and add a new paragraph H to read as set forth below.

b. In data element ''Record Source Categories'' remove the phrase ''parole or probation services'' and add the phrase ''community corrections entities'' in its place.

CSOSA–18

* * * * *

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

H. A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency.

* * * * *

12. In CSOSA/PSA–1, make the following changes:

a. In data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

i. Remove the phrase ''civil or'' from paragraph B;

ii. Redesignate paragraphs C through F as paragraphs D through G;

iii. Add a new paragraph C to read as set forth below;

iv. Revise newly designated paragraph D as set forth below;

v. In newly designated paragraph F, revise the phrase ''attorney on record'' to read ''attorney of record''.

b. Revise the data element ''Retention and Disposal'' to read as set forth below.

CSOSA/PSA–1

* * * * *

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

C. Information may be disclosed to the appropriate Federal, state, local, foreign or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order where PSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

D. To provide information relating to DC defendants to Federal, local and state courts, court personnel, prosecutors, defense attorneys, corrections, probation, parole, and other pretrial officials to the extent necessary to permit them to accomplish their assigned duties in any criminal matter, unless otherwise prohibited by law or regulation.

* * * * *

RETENTION AND DISPOSAL:

Information will be retained for 5 years after disposition of charge(s).

* * * * *

13. In CSOSA/PSA–2, make the following changes:

a. In data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

i. Remove the phrase ''civil or'' from paragraph B;

ii. Redesignate paragraphs C through F as paragraphs D through G;

iii. Add a new paragraph C to read as set forth below;

iv. Revise newly designated paragraph D as set forth below.

b. Revise the data element ''Retention and Disposal'' to read as set forth below.

CSOSA/PSA–2

* * * * *

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

C. Information may be disclosed to the appropriate Federal, state, local, foreign or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order where PSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

D. To provide information relating to DC defendants and offenders to Federal, local and state courts, court personnel, prosecutors, defense attorneys, corrections, probation, parole, and other pretrial officials to the extent necessary to permit them to accomplish their assigned duties in any criminal matter, unless otherwise prohibited by law or regulation.

* * * * *

RETENTION AND DISPOSAL:

Information will be retained for 5 years after disposition of charge(s).

* * * * *

14. In CSOSA/PSA–3, in data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

a. Remove the phrase ''civil or'' from paragraph B;

b. Redesignate paragraphs C through F as paragraphs D through G;

c. Add a new paragraph C to read as set forth below;

d. In newly designated paragraph F, revise the phrase ''attorney on record'' to read ''attorney of record''.

CSOSA/PSA–3

* * * * *

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

C. Information may be disclosed to the appropriate Federal, state, local, foreign or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order where PSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

* * * * *

15. In CSOSA/PSA–6, make the following changes:

a. Revise data element ''System Name'' to read as set forth below.

b. Revise data element ''Categories of Individuals Covered by the System'' to read as set forth below.

c. In data element ''Routine Uses of Records Maintained, Including Categories of Users and the Purposes of Such Uses'':

i. Remove the phrase ''civil or'' from paragraph B;

ii. Redesignate paragraphs C through F as paragraphs D through G;

iii. Add a new paragraph C to read as set forth below;

iv. Revise newly designated paragraph D as set forth below.

d. Revise the data element ''Retention and Disposal'' to read as set forth below.

CSOSA/PSA–6

SYSTEM NAME:

Pretrial Realtime Information Systems Manager (PRISM).

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defendants charged with Federal and local misdemeanor and felony charges,

municipal violations and traffic offenses in the District of Columbia.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

C. Information may be disclosed to the appropriate Federal, state, local, foreign or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order where PSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

D. To provide information relating to DC defendants and offenders to Federal, local and state courts, court personnel, prosecutors, defense attorneys, corrections, probation, parole, and other pretrial officials to the extent necessary to permit them to accomplish their assigned duties in any criminal matter, unless otherwise prohibited by law or regulation.

* * * * *

RETENTION AND DISPOSAL:

Information will be retained for 5 years after disposition of charge(s).

* * * * *

Dated: June 20, 2003.

Paul A. Quander, Jr.,

Director, Court Services and Offender Supervision Agency.

[FR Doc. 03–16195 Filed 6–26–03; 8:45 am]

BILLING CODE 3129–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2003 Revised Diagnosis Related Group (DRG) Adjusted Standardized Amounts (ASAs) for Other Areas

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of revised DRG ASA rates for other areas.

SUMMARY: This notice informs readers of a change made to the TRICARE DRG-based payment system in order to conform to a change made to the Medicare Prospective Payment System (PPS). The FY 2003 Omnibus Appropriations Act equalized the large urban and other urban ASAs under Medicare's Prospective Payment System (PPS). The TRICARE DRG-based payment system is modeled on the Medicare PPS, therefore it is necessary to revise the TRICARE ASA rates for other areas to conform to the Medicare PPS change. The updated ASA rates for other areas are accessible through the Internet at *http://www.tricare.osd.mil* under the sequential headings TRICARE Provider Information, Rates and Reimbursements, and DRG Information.

EFFECTIVE DATES: The revised ASA rates for other areas under the TRICARE DRG-based payment system are effective for admissions occurring on or after April 1, 2003.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3627.

Dated: May 22, 2003.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 03–13398 Filed 6–26–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Cost Sharing in Department of Defense Research Programs Using Assistance Instruments

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of Defense (DoD) proposes to issue a DoD Instruction on the use of cost sharing in basic, applied, and advanced research projects carried out through grants and other assistance instruments. The purposes of the DoD Instruction are to ensure that cost sharing is used appropriately and to make awarding offices' cost sharing policies and practices clear to potential proposers. The DoD Instruction will provide consistent policies and procedures for assistance instruments awarded under the many research programs of the Army, Navy, Air Force, Defense Advanced Research Projects Agency and other Defense Agencies. The draft DoD Instruction is available on the Director of Defense Research and Engineering Web site located at *http://www.acq.osd.mil/ddre/research/draftcostsharing.pdf.*

DATES: Comments must be received by August 26, 2003.

ADDRESSES: Comments should be addressed to: Dr. Anne Matsuura, DoD Basic Research Office, 4015 Wilson Blvd., Suite 216, Arlington, VA 22203. Comments may be submitted via e-mail *(Anne_Matsura@onr.navy.mil).*

FOR FURTHER INFORMATION CONTACT: Dr. Anne Matsuura, DoD Basic Research Office, at (703) 696–2530.

SUPPLEMENTARY INFORMATION: Over the past few years, research performers have expressed concern to Federal awarding agencies about their cost sharing policies and practices. In the late 1990s, for example, the Committee of Science of the National Science and Technology Council (NSTC) received commented on cost sharing when it conducted a review designed to find ways to relieve unnecessary sources of stress on the Government-university research partnership. Comments from universities suggested a need for clearer and more consistent agency policies on cost sharing practices and expectations. As a result of the NSTC review, the President issued Executive Order 13185 in December 2000 to establish guiding principles and operating principles for the research partnership between universities and Federal agencies. (The Executive order can be found at *http://www.ostp.gov/html/011001_3.html.* One operating principle is that Federal ''agency cost sharing policies and practices must be transparent.'' The Executive order refers to the full explanation of this operating principle in the April 1999 NSTC report entitled ''Renewing the Government-University Partnership:''

''As in any investment partnership, each partner contributes to the research endeavor. While the primary contribution of universities is the intellectual capital of the researchers' ideas, knowledge, and creativity, it is sometimes appropriate for universities to share in the costs of the research (and in some cases cost sharing is required by statute). Cost sharing can be appropriate when there are compelling policy reasons for it, such as in programs whose principal purpose is to build infrastructure and enhance an awardee's institution's ability to compete for future Federal awards. Cost sharing is rarely appropriate when an awardee is acting solely as a supplier of goods or services to the government since this would entail a university subsidy of goods purchased by the government. If agency funds are not sufficient to cover the costs of a research project, the agency and the university should re-examine the scope of the project, unless there are compelling policy reasons to require university cost sharing. Agencies should be clear about their cost sharing policies and announce when and how sharing will figure in selection processes, including explicit information regarding the amount of cost sharing expected.''

The cost sharing issue arose again after the Congress enacted the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107). That law requires Federal agencies to streamline and simplify the award and administration of Federal grants. It also mandates that agencies obtain input from the affected public. Comments that Federal agencies received from grant applicants and recipients pointed out a need for agency action on cost sharing, reinforcing the earlier findings of the NSTC review.

The Department of Defense, which is active in the leadership of the interagency streamlining efforts under Public Law 106–107 and helped develop the guiding and operating principles set forth in Executive Order 13185, proposes to address cost sharing for assistance instruments through a DoD Instruction. This Instruction for assistance instruments will parallel and complement action the Department already has taken to address cost sharing issues for research and development contracts (a DoD policy memorandum of May 16, 2001, established a policy, since incorporated into paragraph E1.1.6 of DoD Directive 5000.1, that prohibits contractor cost sharing if there is no reasonable probability of commercial applications).

The proposed Instruction for assistance instruments would disseminate guidance for program managers and grants officers in research program offices in the DoD Components. The guidance is drafted in plain language, in a question-and-answer format. The intent is ot establish an easily understood DoD-wide policy framework to help ensure that proposers and research performers receive consistent, as well as fair and equitable, treatment on cost sharing matters. We invite input from potential proposers and performers of DoD basic, applied, and advanced research efforts to help us improve the proposed Instryctuib and better achieve this goal.

Dated: June 20, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16251 Filed 6–26–03; 8:45 am]

BILLING CODE 5001–08–M

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 26, 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 D. Fitzgerald,

Federal Register Air Force Liaison Officer.

[FR Doc. 03–16264 Filed 6–26–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meeting for the Draft Environmental Impact Statement (DEIS) for Military Family Housing in the San Diego Region

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency (EPA) the DEIS for Military Family Housing (MFH) in the San Diego Region. The public meetings will be held to provide information, as well as receive oral and written comments on the DEIS. Federal, state, and local agencies and interested individuals are invited to be present or represented at the meeting. The public meetings will be open forums in that there will be no formal presentations; however, you may speak directly with representatives from the Navy and Marine Corps. There will be information booths on planning and environmental issues associated with the proposed action. A certified court reporter will also be available to take comments at the public meetings.

DATES AND ADDRESSES: Two public meetings will be held to provide additional information, answer questions, and receive oral and written comments. The first meeting will be held on Tuesday, July 22, 2003, from 6 p.m. to 9 p.m. at Deportola Middle School, 11010 Clairemont Mesa Blvd,

San Diego, CA. The second meeting will be held on Thursday, July 24, 2003, from 6 p.m. to 9 p.m. at Scripps Ranch Community Library, 10301 Scripps Ranch Lake Dr, San Diego, CA.

FOR FURTHER INFORMATION CONTACT: Ms. Sheila Donovan, Regional Planning Team, Southwest Division at (619) 532–1253, E-Mail at *donovansm@efdsw.navfac.navy.mil,* or write to Commander, Southwest Division, Naval Facilities Engineering Command, Attn: Ms. Sheila Donovan, Code 05GPE.SD, 1220 Pacific Highway, San Diego, CA 92132–5190.

SUPPLEMENTARY INFORMATION: A Notice of Intent (NOI) to prepare the DEIS was published in the FR, Vol. 64, FR 50795–50796, September 16, 1999. Two public scoping meetings were held on October 6, 1999, at Serra High School in Tierrasanta and October 13, 1999, at Scripps Ranch High School in Scripps Ranch. The meetings were advertised in the Union-Tribune on September 17, 18, and 19, 1999.

The proposed action is the construction of up to 1,600 MFH units and supporting infrastructure. The DEIS analyzes three MFH alternatives and the No Action Alternative. The MFH sites (Sites 2, 3, and 8) are located on Marine Corps Air Station (MCAS) Miramar in the City of San Diego within an area known as East Miramar.

Site 2 is approximately 283 acres and would include development of up to 1,000 units. Site 2 is located off Pomerado Road in the northeast portion of East Miramar near the community of Scripps Ranch.

Site 3 is approximately 233 acres and would include development of up to 1,246 units. Site 3 is located in the north central portion of East Miramar near the community of Scripps Ranch and would be accessed by an extension of Miramar Way.

Site 8 is approximately 299 acres and would include development of up to 1,600 units. Site 8 is located in the southeastern portion of East Miramar near the community of Tierrasanta. This site would be accessed by a 2.5-mile extension of Santo Road at State Route (SR) 52. An alternate access for Site 8 is also examined in the DEIS that involves the construction of a new interchange on SR 52 and the construction of an approximately 400-foot long roadway. All sites would also include acreage for an elementary school site (Site 8 includes acreage for two elementary school sites) and other recreational facilities. The No Action alternative would result in the proposed new housing not being built. The DEIS identifies Site 8 as the Preferred Alternative.

The shortage of affordable housing in the San Diego region has been and continues to be a high priority for the Department of the Navy because it is important in maintaining high morale and retention rates. The shortage of MFH and the tight rental market in San Diego is felt most acutely by junior and mid-level enlisted military personnel. The Housing Market Analysis for the San Diego area estimates the current MFH deficit to be 2,356 units with a projected shortfall of 2,870 units in 2007.

The DEIS evaluates the potential environmental effects associated with each of the alternatives and options in the following areas: land use; socioeconomics; environmental justice; utilities; public services; visual resources; cultural resources; biological resources; soils and geology; water resources; hazardous wastes, substances and materials; traffic/circulation; air quality; noise; and public safety. The analysis also includes the evaluation of direct, indirect, short-term and cumulative impacts. No decision to implement any alternative, including the No Action Alternative, will be made until the NEPA process is complete.

The DEIS has been distributed to various Federal, state, and local agencies, elected officials, and special interest groups. The DEIS is available for public review at the following libraries:

- Tierrasanta Branch Library, 4985 La Cuenta Dr, San Diego, CA.
- Scripps Ranch Branch Library, 10301 Scripps Ranch Lake Drive, San Diego, CA.
- San Diego Central Library, 820 East St, San Diego, CA.
- Mira Mesa Library, 8405 New Salem Dr, San Diego, CA.
- Santee Library, 9225 Carlton Hills Blvd, Suite 17, Santee, CA.

All comments, both oral and written, will become part of the official record. Comments should clearly describe specific issues or topics with the DEIS. Written comments can be submitted at the public meetings or mailed to: Commander, Southwest Division, Naval Facilities Engineering Command, Attn: Ms. Sheila Donovan, Code 05GPE.SD 1220 Pacific Highway, San Diego, CA 92132–5190. Comments must be postmarked by August 12, 2003, to be considered in this environmental review process.

Dated: June 20, 2003.

E.F. McDonnell,

Major, U.S. Marine Corps, Federal Register Liaison Officer.

[FR Doc. 03–16296 Filed 6–26–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 26, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the

Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 23, 2003.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Aid

Type of Review: New.

Title: eZ-Audit: Electronic Submission of Financial Statements and Compliance Audits.

Frequency: Annually, and as otherwise required under the Title IV, Higher Education Act (HEA) program regulations.

Affected Public: Not-for-profit, proprietary, and public postsecondary institutions.

Reporting and Recordkeeping Hour Burden: Responses: 5,900; Burden Hours: 4,251.

Abstract: eZ-Audit is a web-based process designed to facilitate the submission of compliance and financial statement audits, expedite the review of those audits by the Department, and provide more timely and useful information to institutions regarding the Department's review. EZ-Audit establishes a uniform process under which all institutions submit directly to the Department any audit required under the Title IV, HEA program regulations.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2217. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–16272 Filed 6–26–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 28, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 23, 2003.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Aid

Type of Review: Revision.

Title: Federal Family Education Loan Program Federal Consolidation Loan Application and Promissory Note.

Frequency: One time.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 263,000.

Burden Hours: 263,000.

Abstract: This application form and promissory note is the means by which a borrower applies for a Federal Consolidation Loan and promises to repay the loan, and a lender or guaranty agency certifies the borrower's eligibility to receive a Consolidation loan.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2265. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–16273 Filed 6–26–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information

Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 28, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 23, 2003.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Application Package for the Graduate Assistance in Areas of National Need (GAANN) Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 325

Burden Hours: 13,432.

Abstract: These instructions and forms are used to obtain the programmatic and budgetary information needed to evaluate applications for new awards under the GAANN program and to make funding decisions based on the authorizing legislation and the published funding criteria.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2296. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–16274 Filed 6–26–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 28, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 23, 2003.

Joseph Schubart, Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Aid

Type of Review: Revision.

Title: Student Aid Report (SAR).

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 13,985,297

Burden Hours: 4,486,234.

Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

Requests for copies of the submission for OMB review; comment request may

be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2234. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–16275 Filed 6–26–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, July 17, 2003, 5:30 p.m.–9:30 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Don Seaborg, Deputy Designated Federal Officer (DDFO), Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda

5:30 p.m.—Informal Discussion
6 p.m.—Call to Order; Approve June Minutes; Review Agenda
6:10 p.m.—DDFO's Comments
- Budget Update
- Environment, Safety, & Health Issues
- Environmental Management Project Updates
- Citizen Advisory Board Recommendation Status
- Cleanup Scope Update
- Other

6:30 p.m.—Federal Coordinator Comments
6:40 p.m.—Ex-officio Comments
6:50 p.m.—Public Comments and Questions
7 p.m.—Administrative Issues
- Review of Workplan
- Review Next Agenda

7:20 p.m.—Review of Action Items
7:35 p.m.—Break
7:45 p.m.—Presentations
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Five-Year Review
- Dr. Wes Birge, University of Kentucky
- Kentucky Pollutant Discharge Elimination System (KPDES) Permit Presentation

8:45 p.m.—Public Comments and Questions
8:55 p.m.—Task Force and Subcommittee Reports
- Water Task Force
- Waste Operations Task Force
- Long Range Strategy/Stewardship
- Community Concerns
- Public Involvement/Membership
- Ad Hoc for Chairs' Meeting

9:25 p.m.—Final Comments
9:30 p.m.—Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact David Dollins at the address listed above or by telephone at (270) 441–6819. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday thru Friday or by writing to David Dollins, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6819.

Issued at Washington, DC on June 24, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–16315 Filed 6–26–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, July 21, 2003—1 p.m.–6 p.m.

Tuesday, July 22, 2003—8:30 a.m.–4 p.m.

ADDRESSES: Adams Mark Hotel, 1200 Hampton Street, Columbia, SC 29201.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Science Technology & Management Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC, 29802; Phone: (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, July 21, 2003

1 p.m.—Combined Committee Session
5:15 p.m.—Executive Committee Meeting
6 p.m.— Adjourn

Tuesday, July 22, 2003

8:30–9 a.m.—Approval of Minutes; Agency Updates; Public Comment Session; Facilitator Update
9–11 a.m.—National Nuclear Security Administration

11–11:45 a.m.—Strategic Initiatives Committee Report
11:45–12 a.m.—Public Comments 12 noon Lunch Break
1–1:30 p.m.—DOE Headquarters Designated Federal Officer Report
1:30–3 p.m.—Reports from the Environmental Restoration Committee, Waste Management Committee, Nuclear Materials Committee, and Administrative Committee
3–3:30 p.m.—Bylaws Amendment Proposal
3:30–3:55 p.m.—Process Retreat Actions—Process Improvements
3:55–4 p.m.—Public Comments
4 p.m.—Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, July 21, 2003.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make the oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Fleming, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC, 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on June 24, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–16316 Filed 6–26–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–97–000, et al.]

Virginia Electric and Power Company, et al., Electric Rate and Corporate Filings

June 19, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Virginia Electric and Power Company and Dominion Energy Marketing, Inc.

[Docket No. EC03–97–000

Take notice that on June 13, 2003, Virginia Electric and Power Company (Dominion Virginia Power) and Dominion Energy Marketing, Inc. (DEMI) filed an application for an order authorizing the proposed transfer of certain of Dominion Virginia Power wholesale power sales agreements to its affiliate, DEMI.

Comment Date: July 7, 2003.

2. FPL Energy North Dakota Wind II, LLC

[Docket No. EG03–74–000]

Take notice that on June 16, 2003, FPL Energy North Dakota Wind II, LLC (the Applicant), filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The Applicant states that it is a Delaware limited liability company engaged directly and exclusively in the business of owning and operating an approximately 21 MW wind-powered generation facility located in La Moure County, North Dakota. Electric energy produced by the facility will be sold at wholesale.

Comment Date: July 10, 2003.

3. FPL Energy Wyoming, LLC

[Docket No. EG03–75–000]

Take notice that on June 16, 2003, FPL Energy Wyoming, LLC (the Applicant), filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The Applicant states that it is a Delaware limited liability company engaged directly and exclusively in the business of owning and operating an approximately 144 MW wind-powered generation facility located in Uinta County, Wyoming. Electric energy produced by the facility will be sold at wholesale.

Comment Date: July 10, 2003.

4. Duke Energy Hanging Rock, LLC

[Docket No. EG03–76–000]

Take notice that on June 16, 2003, Duke Energy Hanging Rock, LLC (Duke Hanging Rock), filed with the Federal Energy Regulatory Commission (Commission), an application for redetermination of exempt wholesale generator (EWG) status pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Hanging Rock states that it is a Delaware limited liability company that will be engaged directly and exclusively in the business of owning or owning and operating eligible facilities to be located in Lawrence County, Ohio. Duke Hanging Rock states that the eligible facilities will consist of an approximately 1,240 MW natural gas-fired, combined cycle electric generation plant and related facilities. Duke Hanging Rock also states that the electric output of the eligible facilities will be sold at wholesale.

Comment Date: July 9, 2003.

5. Duke Energy Washington, LLC

[Docket No. EG03–77–000]

Take notice that on June 16, 2003, Duke Energy Washington, LLC (Duke Washington), filed with the Federal Energy Regulatory Commission (Commission) an application for redetermination of exempt wholesale generator (EWG) status pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Washington states that it is a Delaware limited liability company that will be engaged directly and exclusively in the business of owning or owning and operating eligible facilities to be located in Washington County, Ohio. Duke Washington states that the eligible facilities consist of an approximately 620 MW natural gas-fired, combined cycle electric generation plant and related facilities. Duke Washington also states that the electric output of the eligible facilities will be sold at wholesale.

Comment Date: July 9, 2003.

6. American Ref-Fuel Company, Covanta Energy Group, Montenay Power Corporation, and Wheelabrator Technologies Inc.

[Docket No. EL03–133–000]

Take notice that on June 13, 2003, American Ref-Fuel Company, Covanta Energy Group, Montenay Power Corporation, and Wheelabrator Technologies Inc. filed with the Federal Energy Regulatory Commission (Commission) a Petition for Declaratory Order and Request for Expedited Consideration pursuant to rule 207 of the Commission's rules of practice and procedure, 18 CFR 385.207. The petition concerns the interpretation of the Commission's avoided cost regulations implementing the Public Utility Regulatory Policies Act of 1978 (PURPA).

Comment Date: July 7, 2003.

7. Maine Public Service Company

[Docket No. ER00–1053–009]

Take notice that on June 16, 2003, Maine Public Service Company (MPS) pursuant to section 2.4 of the Settlement Agreement filed on June 30, 2000, in Docket No. ER00–1053–000, and accepted by the Federal Energy Regulatory Commission on September 15, 2000, submits this informational filing setting forth the changed open access transmission tariff changes effective June 1, 2003, and back-up materials.

MPS states that copies of this filing were served on the parties to the Settlement Agreement, the Commission Trial Staff, the Maine Public Utilities Commission, the Maine Public Advocate, and current MPS open access transmission tariff customers.

Comment Date: July 7, 2003.

8. PJM Interconnection, L.L.C.

[Docket No.ER02–597–002]

Take notice that on June 17, 2003, PJM Interconnection, L.L.C. (PJM) submitted a revised refund report, supplementing the refund report filed in this proceeding on August 22, 2002, to reflect additional refunds that were provided to customers in the PPL Electric zone in December 2002.

PJM states that copies of this filing have been served on all parties listed on the official service list compiled by the Secretary in this proceeding.

Comment Date: July 8, 2003.

9. New York Independent System Operator, Inc.

[Docket No. ER03–200–003]

Take notice that on June 13, 2003, the New York Independent System Operator, Inc. (NYISO) submitted a compliance filing in connection with the Commission's January 21, 2003, order in Docket No. ER03–200–000.

The NYISO states that it has served a copy of this filing to all parties listed on the official service list. The NYISO also states that it has served a copy of this filing to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: July 7, 2003.

10. Automated Power Exchange, Inc.

[Docket No. ER03–559–002]

Take notice that on June 13, 2003, Automated Power Exchange, Inc. filed information in compliance with the Commission's May 6, 2003, Letter Order in Docket No. ER03–559–000.

Comment Date: July 7, 2003.

11. ISO New England Inc.

[Docket No. ER03–894–001]

Take notice that on June 16, 2003, the New England Power Pool (NEPOOL) Participants Committee jointly with ISO New England Inc. (the ISO) filed information supplementing their May 29, 2003, joint filing of the Hydro-Quebec Interconnection Capability Credit (HQICC) values established by the Participants Committee pursuant to the Restated NEPOOL Agreement for the 2003/2004 NEPOOL Power Year. A June 1, 2003, effective date was requested for implementation of these HQICC values.

NEPOOL and the ISO state that copies of the filing have been sent to NEPOOL Participants, Non-Participant Transmission Customers and the New England state governors and regulatory commissions.

Comment Date: July 7, 2003.

12. Carolina Power & Light Company, Florida Power Corporation

[Docket No. ER03–962–000]

Take notice that on June 17, 2003, Carolina Power & Light Company and Florida Power Corporation, (together, the Companies) tendered for filing with the Federal Energy Regulatory Commission modifications to their Open Access Transmission Tariffs (OATT). The Companies state that the modifications add provisions for suspension of service to non-creditworthy customers that do not meet enhanced credit security requirements and clarify the billing determinants for ancillary services in Schedules 1–6. The Companies respectfully request that the OATT modifications become effective on August 17, 2003.

The Companies also state that copies of the filing were served upon the public utility's jurisdictional customers, the North Carolina Utilities Commission and the Florida Public Service Commission.

Comment Date: July 8, 2003.

13. CERITAS Energy, LLC

[Docket No. ER03–963–000]

Take notice that on June 17, 2003, CERITAS Energy, LLC (CERITAS) petitioned the Commission for acceptance of 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.

CERITAS states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. CERITAS also states that it are not in the business of generating and transmitting electric power. CERITAS states it is a wholly-owned subsidiary of The CERITAS Group, LLC, which, through its affiliates provides energy and consulting services.

Comment Date: July 8, 2003.

14. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. RT01–87–008, ER02–106–002, and ER02–108–010]

Take notice that on June 13, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed proposed revisions to section VI of Appendix B (Planning Framework) of the Agreement of the Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff, First Revised Rate Schedule No. 1, pursuant to the May 14, 2003, order on rehearing and compliance filing in Midwest Independent Transmission System Operator Inc., 103 FERC ¶ 61,169 (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 *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: July 7, 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16276 Filed 6–26–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act; Meeting; Revised Notice of Meeting*

June 23, 2003.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date and Time: June 25, 2003 (Within a relatively short time after the regular Commission Meeting).

Place: Room 3M 4A/B, 888 First Street, NE., Washington, DC 20426.

Status: Closed.

Matters to be Considered: Non-Public Investigations and Inquiries and Enforcement Related Matters.

Contact Person for More Information: Magalie R. Salas, Secretary. Telephone (202) 502–8627.

The following Commissioners voted that agency business requires the holding of a closed meeting on less than the seven-day notice required by the Government in the Sunshine Act: Chairman Wood and Commissioners Massey and Brownell.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16396 Filed 6–24–03; 4:20 pm]

BILLING CODE 6717–01–P

* On June 19, 2003, the Commission issued a Notice of Meeting scheduling a closed meeting for June 26, 2003. This meeting is hereby canceled.

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2003–0097, FRL–7519–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; EPA's Mobile Air Conditioner Retrofitting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Information Collection Activities Associated with EPA's Mobile Air Conditioner Retrofitting Program; EPA ICR Number 1774.03, OMB Number 2060–0350, expiring September 30, 2003. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 26, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided below in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Dave Godwin, Global Programs Division, Office of Atmospheric Programs, Mail Code 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–3517; fax number: 202–565–2155; email address: *Godwin.Dave@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OAR–2003–0097, which is available for public viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the 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 docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public 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 EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 *FR* 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Affected entities: Entities potentially affected by this action are new and used car dealers, gas service stations, top and body repair shops, and general automotive repair shops (including air conditioning and radiator specialty shops).

Title: Information Collection Activities Associated with EPA's Mobile Air Conditioner Retrofitting Program (OMB Control Number 2060–0350; EPA ICR Number 1774.03 expiring 9/30/2003).

Abstract: Section 612 of the Clean Air Act (CAA) requires EPA to promulgate rules making it unlawful to replace any ozone-depleting substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available. In 1994, the Significant New Alternatives Policy (SNAP) Program was enacted, enabling the Agency to review available substitutes for ozone-depleting substances and determine their acceptability. The SNAP program includes review of potential alternatives to ozone-depleting refrigerants used for air conditioning motor vehicles. EPA is concerned that the existence of several substitutes in this end-use may increase the likelihood of significant refrigerant cross-contamination and potential failure of both air conditioning systems and recovery/recycling equipment. In addition, continuing the smooth transition to the use of substitutes strongly depends on the continued purity of the recovered, recycled and/or reclaimed R–12 supply. The purpose of this Information Collection Request (ICR) is to estimate the burden associated with the 40 Code of Federal Regulations (CFR) Part 82 requirement that service technicians label mobile air conditioners with information about new refrigerants when they retrofit a system. These labels acknowledge that the retrofitting has been completed and that the mobile air conditioner should no longer use chlorofluorocarbon (CFC) refrigerant. In addition, the labels provide essential information to technicians about the specific refrigerant used in the air conditioning system. The following information is required on the label:

- The name and address of the technician and the company performing the retrofit.
- The date of the retrofit.
- The trade name, charge amount, and, when applicable, the numerical designation of the refrigerant as determined under the latest version of Standard 34 of the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE), Inc.
- The type, manufacturer, and amount of lubricant used.
- If the refrigerant is or contains an ozone-depleting substance, the phrase ''ozone depleter''.
- If the refrigerant displays flammability limits as measured according to latest version of Standard E681 of the American Society for Testing and Materials (ASTM) International, the statement ''This refrigerant is FLAMMABLE. Take appropriate precautions.''

This information assists the technician in avoiding service practices that might result in cross-contamination, system failure and/or system performance degradation. Responses to the collection information are mandatory (section 612 of the CAA and 40 CFR part 82). 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.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The U.S. Department of Labor statistics indicate there are 168,630 automotive body and related repairers (Standard Occupation Classification [SOC] System Code Number 49–3021) and 701,150 automotive service technicians and mechanics (SOC Code Number 49–3023) in the U.S., some of whom will be responsible for retrofitting an estimated 3,000,000 motor vehicle air conditioners by September 30, 2006, the date this ICR will expire. EPA estimates the time to complete and apply the label at 5 minutes per instance, making the total burden 250,000 hours. At an average labor rate of $70 per hour, the overall cost associated with the burden hours is $17,500,000. The cost for designing, typesetting, printing and distributing 3,000,000 labels is estimated to be $300,000 ($0.10 per label). Adding the labor and capital costs together yields a total cost burden of $17,800,000. 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.

Dated: June 19, 2003.

Edward Callahan,

Acting Director, Office of Atmospheric Programs.

[FR Doc. 03–16330 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6641–5]

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 04, 2003 (68 FR 16511).

Draft EISs

ERP No. D–AFS–J65380–UT Rating EC2, Prima East Clear Creek Federal No. 22–42 Gas Exploration Well, Application for Permit to Drill (APD) including a Surface Use Plan of Operations, Approval, Castle Valley

Ridge, Ferron/Price Ranger District, Manti-La Sal National Forest, Carbon and Emery Counties, UT.

Summary: EPA expressed environmental concerns with potential direct and indirect adverse environmental impacts from gas development and road construction in an Inventoried Roadless Area. The final EIS should include additional information regarding the management of produced water and impacts to aquatic resources, soils and water quality as well as from OHV use.

ERP No. D–DOE–E09809–SC Rating EC1, Savannah River Site Construction and Operation of a Mixed Oxide (MOX) Fuel Fabrication Facility, NUREG–1767, Aiken, Barnwell and Allendale Counties, SC.

Summary: EPA is pleased with the quality of this draft EIS, especially the mitigation plans. However, EPA is concerned possible impacts from the hazardous and radioactive wastes generated during operation of the proposed facility.

ERP No. D–NPS–K65251–AZ Rating LO, Petrified Forest National Park General Management Plan Revision, Implementation, Navajo and Apache Counties, AZ.

Summary: EPA expressed a lack of objections to the proposed plan, but recommended more detailed information in the Final EIS regarding mitigation measures that will be used to protect water quality from facility improvement activities.

ERP No. DR–DOE–A09824–00 Rating EC2, Hanford Site Solid (Radioactive and Hazardous) Waste Program, New Information on Waste Management Alternatives, Waste Management Practices Enhancement for Low-Level Radioactive Waste, Mixed Low-Level Radioactive Waste and Transuranic Waste, Richland, Benton County, WA.

Summary: EPA is pleased that the revised draft EIS responds to issues we raised in our review of the earlier draft, particularly the analysis of new alternatives. EPA is still concerned, however, that the EIS provides insufficient information to differentiate the environmental effects among alternatives and to ensure compliance with environmental standards. EPA recommends that the final EIS provide additional groundwater analysis and impact information. Also, the final EIS should further describe mitigation measures and their effectiveness in the environmental consequences chapter.

Final EISs

ERP No. F–AFS–J65363–MT Post Fire Vegetation and Fuels Management Project, Fuel Reduction, Bark Beetle Sanitation and Maintenance, and/or Restoration of Vegetative Communities, Beaverhead Deerlodge National Forest, Wisdom and Pintler Ranger Districts, Beaverhead and Deerlodge Counties, MT.

Summary: EPA supports the elimination of proposed riparian harvests, and noted that activities need to be consistent with Montana's development of TMDLs and water quality restoration plans for 303(d) listed waters. EPA also recommended consideration of additional seeding and revegetation on barren hillsides.

Dated: June 24, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–16333 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6641–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 202–564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements Filed June 16, 2003 Through June 20, 2003 Pursuant to 40 CFR 1506.9.:

EIS No. 030285, Draft EIS, BLM, OR, Travis Tyrrell Seed Orchard Integrated Pest Management (IPM) Program, Implementation, Eugene District, Lorne, Lane County, OR, Comment Period Ends: August 25, 2003, Contact: Glenn Miller (541) 683–6445.

EIS No. 030286, Draft EIS, BLM, OR, Provolt Seed Orchard Integrated Pest Management (IPM) Program, Implementation, Grants Pass, Medford District, Jackson and Josephine Counties, OR and Charles A. Sprague Seed Orchard Integrated Pest Management (IPM) Program, Implementation, Merlin, Medford District, Josephine County, OR, Comment Period Ends: August 25, 2003, Contact: Harvey Koester (541) 618–2401.

EIS No. 030287, Draft EIS, BLM, OR, Walter H. Horning Seed Orchard Integrated Pest Management (IPM) Program, Implementation, Colton, Salem District, Clackamas County, OR, Comment Period Ends: August 25, 2003, Contact: Greg Tylor (503) 630–8406.

EIS No. 030288, Draft EIS, NPS, TX, Big Bend National Park General Management Plan, Implementation, Brewster County, TX, Comment Period Ends: August 25, 2003, Contact: John King (915) 477–1101.

EIS No. 030289, Final Supplement, COE, TX, OK, Red River Chloride Control Project, Authorization to Reduce the National Occurring Levels of Chloride in the Wichita River Only Portion, North, Middle and South Forks, Wichita River and Red River, Implementation, Tulsa District, Wichita County, TX, Wait Period Ends: July 28, 2003, Contact: David L. Combs (918) 669–7660. This document is available on the Internet at: *http://www.swt.usace.army.mil/LIBRARY/library.CFM.*

EIS No. 030290, Draft EIS, FRC, NY, St. Lawrence-FDR Hydroelectric Project, Application for New License (Relicense), (FERC No. 200–036), Located on the St. Lawrence River, Messina, NY, Comment Period Ends: August 11, 2003, Contact: Ed Lee (202) 502–6082. This document is available on the Internet at: *(http://www.ferc.gov)*

EIS No. 030291, Draft EIS, USN, CA, Military Family Housing (MFH) in the San Diego Region, Construction of a 1,600 MFH Units, Three MFH Sites are located in the Marine Corps Air Station (MCAS), Miramar in the City of San Diego, San Diego County, CA, Comment Period Ends: August 11, 2003, Contact: Sheila Donovan (619) 532–2518.

EIS No. 030292, Final EIS, USN, CA, Naval Station Treasure Island Disposal and Reuse Property, Implementation, Local Redevelopment Authority (LRA), City of San Francisco, San Francisco County, CA, Wait Period Ends: July 28, 2003, Contact: Timarie Seneca (619) 532–0955.

EIS No. 030293, Final EIS, TVA, TN, 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, Wait Period Ends: July 28, 2003, Contact: Richard L. Toennisson (865) 632–8517. This document is available on the Internet at: *http://www.tva.gov/environment/reports/index.htm.*

EIS No. 030294, Draft EIS, COE, NJ, Union Beach Community Project, To Provide Hurricane and Storm Damage Reduction to Residential, Commercial and Recreational Resources, Located along the Raritan Bay and Sandy Hook Bay Shoreline, Monmouth County, NJ, Comment Period Ends: August 11, 2003, Contact: Mark H. Burlas (212) 264–4663.

Amended Notices

EIS No. 030263, Draft Supplement, AFS, CA, NV, Sierra Nevada Forest Plan Amendment, New Information on a

Range of Alternatives for Amending Land and Resources 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 (707) 562–8822. Revision of FR Notice Published on 6/13/2003: Correction to Contact Telephone Number.

Dated: June 24, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–16334 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0141; FRL–7304–5]

Region III Strategic Agricultural Initiative Grants; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting proposals to help implement the Food Quality Protection Act (FQPA) and to support ''transition'' to using less and lower risk pesticides in food production. The program supports innovative efforts that enable growers to decrease reliance on agricultural pesticides while maintaining economical outcomes, by developing, demonstrating and/or applying reduced risk alternatives and ecologically based integrated approaches to pest management. This grant program encourages ''systems'' approaches that integrate pest, soil, and crop management practices. Although the focus is on reducing dependency on pesticides and developing alternatives to pesticides targeted under FQPA, a broader approach to problem solving is encouraged in the development of project proposals under FQPA and section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

DATES: Proposals must be postmarked/received by 5 p.m. eastern standard time, July 31, 2003.

ADDRESSES: Proposals may be submitted electronically, by mail, or through hand delivery/courier to John Butler at the address/e-mail listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: John Butler, Environmental Protection Agency, Region III, Mail code 3WC32, Waste & Chemicals Management Division, 1650 Arch Street, Philadelphia, PA 19103–2029; telephone number: (215) 814–2127; fax number: (215) 814–3113; e-mail address: *butler.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to eligible applicants who primarily operate out of and will conduct the project in one of the following Region III States: Delaware, Maryland, Pennsylvania, Virginia, and West Virginia or the District of Columbia. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0141. 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/*. Additional information is available on EPA's PESP website at *http://www.epa.gov/oppbppd1/PESP/regional_grants.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. Once in the system, select ''search,'' then key in the appropriate docket ID number.

3. *By mail or in person*. Contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Purpose of this Request

EPA's, Waste & Chemicals Management Division, Pesticides/Asbestos Programs & Enforcement Branch, Region III, is requesting proposals which will help implement requirements of FQPA, and to support the transition to using less and lower risk pesticides in food production. The program supports innovative efforts that enable growers to decrease reliance on agricultural pesticides while maintaining economical outcomes, by developing, demonstration and/or applying reduced risk alternatives and ecologically based integrated approaches to pest management. This program is included in the catalog of Federal Domestic Assistance under number 66.716.

III. High Priority Areas for Consideration

EPA will award Food Quality Protection Act Strategic Agricultural Initiative grants under the authority of section 20 of FIFRA as amended by FQPA, for projects involving research, development, monitoring, public education, training, demonstrations and studies that enable growers to decrease reliance on agricultural pesticides while maintaining economical outcomes, by developing, demonstration and/or applying reduced risk alternatives and ecologically based integrated approaches to pest management. These proposals should incorporate the following techniques:

1. Utilize demonstration projects, outreach and/or education to increase the adoption of integrated or sustainable agricultural production practices which provide alternatives to pesticides impacted negatively by FQPA decisions.

2. Work collaboratively with producers, commodity groups, and other stakeholders by making the best use of expert field consultants, USDA research, EPA's safer substitutes, and university technical support on alternatives and integrated pest management practices.

3. Actively engage scientists, farmers, industry, and local, State and Federal

partners in the specifics of implementing FQPA.

4. Demonstrate region-specific pest management technologies and integrated crop management systems to replace pesticide uses which may be canceled under FQPA.

5. Use ''farmer to farmer'' training and communication methods, community participation, and/or other forms of public-private cooperation.

IV. Grant Specifics

1. *Amount of funding available*. A total of approximately $100,000 in Federal funds is available to award for projects in Region III. The number of awards will depend on individual proposal cost; the final aggregate amount of Federal funding for all proposals; and the total amount of Federal funding available. Should additional funding become available for award, the Agency may award additional grants based on this solicitation and in accordance with the final selection process, without further notice of competition.

2. *Funding type*. The funding for selected award projects is in the form of a grant awarded under FIFRA.

3. *Right to reject all initial proposals*. The Agency reserves the right to reject all proposals and make no awards.

4. *Matching/cost share requirements*. There are no cost share requirements for these projects. However, matching funds are encouraged.

5. *Project period time frame*. The project period time frame should not exceed 2 years.

6. *Eligible applicants*. Grant funds are available to non-profit groups, including commodity groups/associations and farmers' groups, State agencies, Tribal governments, cooperative extension, universities, and institutes of higher learning. Ineligible groups are encouraged to work with an eligible organization to submit proposals. Implementation of all projects must occur within one of the States of EPA Region III (Delaware, Maryland, Pennsylvania, Virginia, West Virginia) or the District of Columbia. EPA will consider only one proposal by an applicant.

7. *Proposal submittal*. All proposals should be mailed or hand delivered to: John Butler, Environmental Protection Agency, Region III, Waste & Chemicals Management Division, Mail code (3WC32), 1650 Arch Street, Philadelphia, PA 19103–2029.

8. *Due dates*. EPA will consider all proposals which are postmarked by the U.S. Postal Service, hand delivered, or electronically delivered to the Agency, or include official delivery service documentation indicating EPA acceptance from a delivery service, on or before the deadline published in the request for initial proposals. This due date is on or before 5 p.m. eastern standard time, July 31, 2003. Proposals received after the due date will not be considered for funding.

9. *Statutory and regulatory authorities*. Strategic Agricultural Initiative Grants will be awarded under the authority of section 20 of FIFRA, as amended, for research, public education, training, monitoring, demonstration and studies. The regulations governing the award and administration of these grants can be found at 40 CFR part 30 for institutions of higher education, colleges and universities, and non-profit organizations; and 40 CFR part 31 for States and local governments.

10. *Allowable costs*. EPA grant funds may only be used for the purposes set forth in the grant agreement, and must be consistent with the statutory authority for the award. Grant funds may not be used for matching funds for other Federal grants, lobbying, or intervention in Federal regulatory or adjudicatory proceedings. In addition, Federal funds may not be used to sue the Federal government or any other government entity. All costs identified in the budget must conform to applicable Federal Cost Principles contained in OMB Circular A–87; A–122; and A–21, as appropriate.

11. *Federal requirements*. An applicant whose proposal is selected for Federal funding must complete additional forms prior to award (see 40 CFR 30.12 and 31.10). In addition, successful applicants will be required to certify that they have not been debarred or suspended from participation in Federal assistance awards in accordance with 40 CFR part 32.

12. *Intergovernmental review*. Applicants must comply with the Intergovernmental Review Process and/or consultation provisions of Executive Order 12372 or section 204 of the Demonstration Cities and Metropolitan Development Act, if applicable, which are contained in 40 CFR part 29. Further information regarding this requirement will be provided if your proposal is selected for funding.

13. *Pre-application assistance*. None planned.

V. Proposal Format and Contents

Proposals must be typewritten, double spaced in 12 point or larger print using 8.5 x 11 inch paper with minimum 1 inch horizontal and vertical margins. Pages must be numbered in order starting with the cover page and continuing through the appendices. One original and one electronic copy (e-mail or disk) is required. All proposals must include:

1. Completed Standard Form SF 424*, Application for Federal Assistance. Please include organization fax number and e-mail address.

2. Completed Section B--Budget Categories, on page 1 of Standard Form SF 424A*, (See Unit IV.10.--Allowable Cost). Blank forms may be located at *http://www.epa.gov/region03/grants/appforms.htm*.

3. Detailed itemization of the amounts budgeted by individual Object Class Categories (See Unit IV.10.--Allowable Cost).

4. Statement regarding whether this proposal is a continuation of a previously funded project. If so, please provide the assistance number and status of the current grant/cooperative agreement.

5. *Executive Summary*. The Executive Summary shall be a stand alone document, not to exceed one page, containing the specifics of what is proposed and what you expect to accomplish regarding measuring or movement toward achieving project goals. This summary should identify the measurable environmental results you expect including potential human health and ecological benefits.

6. *Table of contents*. A one page table listing the different parts of your proposal and the page number on which each part begins.

7. *Proposal narrative*. Includes Parts I–VI (Parts I through VI listed below are not to exceed 10 pages).

- *Part I--Project title*. Self explanatory.
- *Part II--Objectives*. A numbered list (1, 2, etc.) of concisely written project objectives, in most cases, each objective can be stated in a single sentence.
- *Part III--Justification*. For each objective listed in Part II, discuss the potential outcome in terms of environmental, human health, pesticide risk and/or use reduction or pollution prevention. If appropriate, the target pest(s) and crop(s) should be explicitly stated. This section should be numbered with a justification corresponding to each objective.
- *Part IV--Literature review*. Briefly, describe relevant information currently available. This should also include information on projects currently in progress that are relevant to or provide the basis for either the experimental design or the validation of a new approach to pest management.
- *Part V--Approach and methods*. Describe in detail how the program will be carried out. Describe how the system

or approach will support the program goals.

- *Part VI--Impact assessment*. Please state how you will evaluate the success of the program in terms of measurable environmental results. How and with what measures will humans or ecosystems be better protected as a result of the program.

8. *Proposal appendices*. These appendices must be included in the grant proposal. Additional appendices are not permitted.

- *Literature cited*. List cited key literature references alphabetically by author.
- *Timetable*. A timetable that includes what will be accomplished under each of the objectives during the project and when completion of each objective is anticipated.
- *Major participants*. This appendix should list all farmers, farm organizations, researchers, educators, and conservationists and others having a major role in the proposal. Provide name, organizational affiliation or occupation (such as farmer) and a description of the role each will play in the project. A brief resume (not to exceed two pages) should be submitted for each major researcher or other educator.

9. *Electronic copy*. The electronic copy should be e-mailed to *butler.john@epa.gov* or submitted on a 3.5 disk, IBM compatible, readable in Word Perfect WP6/7/8 for Windows. The electronic copy should be consolidated into a single file. Original copy and disk should be sent to: John Butler, Environmental Protection Agency, Region III, Waste & Chemicals Management Division, 1650 Arch Street, Mail Code (3WC32), Philadelphia, PA 19103–2029. Disks will be checked for computer viruses. Proposals that are submitted with viruses will be disqualified. To be considered, both the paper and electronic copy must be received by the due date.

VI. Preliminary Eligibility Screening Requirements

To be eligible for consideration, applicants must meet all of the following criteria. Failure to meet the following criteria will result in the automatic disqualification of the proposal for funding consideration:

1. Be a applicant who is eligible to receive funding under this announcement.
2. The proposal must address one of more of the High Priority Areas for Consideration.
3. The proposal must meet all format and content requirements contained in this notice.
4. The proposal must comply with the directions for submittal contained in this notice.

VII. Proposed Evaluation Criteria

All proposals will be evaluated based on the following criteria and weights (Total: 100 points) :

1. Qualification and experience of the applicant relative to the proposed project activity. (Weighting: 30 points)
2. Project proposal is consistent with the goals of the FQPA Strategic Agricultural Initiative. (Weighting: 30 points)
3. Provisions for a quantitative or qualitative evaluation of the project success at achieving stated goals. (Weighting: 20 points)
4. Likelihood that the project can be replicated in other areas by other organizations to their benefit. (Weighting: 20 points)

VIII. Processes

A. Evaluation Process

Applicants will be screened to ensure that they meet all eligibility criteria and will be disqualified if they do not meet the criteria. All proposals will be reviewed, evaluated, and ranked by a selected panel of EPA reviewers based on the evaluation criteria listed in Unit VII.

B. Selection Process

The funding decision will be made from the group of top rated proposals based on the following additional factors:

- Region III's environmental priorities which include preventing pollution from one media to another and to strive towards the reduction or elimination of environmental contamination.
- The extent of anticipated environmental impact of the project in Region III.

1. *Selection official*. The final selection of initial proposals will be made by the Region III, Director, Waste & Chemicals Management Division.
2. *Notification*. The Region III EPA Office will mail acknowledgments to applicants upon receipt of the proposal. Once proposals have been reviewed, evaluated, and ranked, applicants will be notified regarding the outcome of the competition. A listing of the successful proposals will be posted on the Region III website address at the conclusion of the competition. This website may also contain additional information about this announcement including information concerning deadline extensions or other modifications.

C. Dispute Resolution Process

The procedures for dispute resolution at 40 CFR 30.63 and 40 CFR 31.70 apply.

IX. Confidential Business Information

Applicants should clearly mark information contained in their proposal which they consider confidential business information. EPA reserves the right to make final confidentially decisions in accordance with Agency regulations at 40 CFR part 2, subpart B. If no such claim accompanies the proposal when it is received by EPA, it may be made available to the public by EPA without further notice to the applicant.

X. Congressional Review Act

Under the Agency's current interpretation of the definition of a ''rule,'' grant solicitations such as this which are competitively awarded on the basis of selection criteria, are considered rules for the purpose of the Congressional Review Act (CRA). The CRA, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally provides that before a rule may take effect, the agency promulgating the rules 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 6, 2003.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 03–16332 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0069; FRL–7310–6]

Propanil; Receipt of Requests to Amend or Voluntarily Cancel Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of written requests by Agriliance, LLC, Dow AgroSciences, LLC, and RiceCo, LLC to voluntarily cancel/amend several registrations to terminate small grain uses (spring (hard red) wheat, oats, spring barley and durum wheat) of certain end-use and technical products for the active ingredient propanil. The Agency requests public comment on the voluntary cancellation and use deletion requests, and is providing a 30–day comment period. Agriliance, LLC, Dow AgroSciences, LLC and RiceCo, LLC have requested that the Administrator waive the 180–day comment period provided under FIFRA section 6(f)(1)(C). EPA will decide whether to approve the request after consideration of public comment.

DATES: Unless a request is withdrawn, the Agency will approve these product and use cancellations/amendments and they will become effective on July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Carmen Rodia, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; telephone number: (703) 306–0327; fax number: (703) 308–8041; e-mail address: rodia.carmen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may however, be of interest to persons who are or may be required to conduct testing of chemical substances under FIFRA or the Federal Food, Drug, and Cosmetic Act (FFDCA); environmental, human health and agricultural advocates; pesticide users; and members of the public interested in the use of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all of the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity or if there are any technical questions related to the propanil RED, please consult the Chemical Review manager 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–2003–0069. 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), Room 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202–4501. 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/. To access RED documents electronically, go directly to the Office of Pesticide Program's Home Page at http://cfpub.epa.gov/oppref/rereg/status.cfm?show=rereg.

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

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. 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 on 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 if additional information is needed regarding the substance of your comment. EPA's policy is that EPA will not edit your comment. 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://cascade.epa.gov/RightSite/dk_public_home.htm, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0069. This 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–2003–0069. 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), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0069.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Room 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202–4501, Attention: Docket ID Number OPP–2003–0069. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel Registrations

A. What Action is the Agency Taking?

This Notice announces receipt by the Agency of requests from Agriliance, LLC, Dow AgroSciences, LLC, and RiceCo, LLC to cancel/amend 10 pesticide products registered under section 3 of FIFRA, effective July 28, 2003. These registrations are listed in Unit II.C.

B. Background

Propanil is a selective post-emergent general use acetanilide herbicide registered to control broadleaf and grass weeds on rice, small grains, and turf.

On March 27, 2002, Dow AgroSciences, LLC requested voluntary cancellation pursuant to section 6(f) of FIFRA of their registrations for the products STAMPEDE CM (EPA Registration No. 62719–404) and STAMPEDE 80 EDF (Alternate Brand) (EPA Registration No. 62719–413). In addition, Dow AgroSciences, LLC also requested voluntary cancellation of propanil use on the small grains for STAM 80 EDF (EPA Registration No. 62719–413).

On March 28, 2002, Dow AgroSciences, LLC requested voluntary cancellation pursuant to section 6(f) of FIFRA of their registration for the product STAMPEDE 3E (Alternate Brand) (EPA Registration No. 62719–386). In addition, Dow AgroSciences, LLC also requested voluntary cancellation of propanil use on the

small grains for STAM F–34 (EPA Registration No. 62719–386).

On March 29, 2002, Dow AgroSciences, LLC requested voluntary cancellation pursuant to section 6(f) of FIFRA of propanil use on the small grains for STAM TECHNICAL 98% DCA (EPA Registration No. 62719–403).

On March 17, 2003, RiceCo, LLC requested voluntary cancellation pursuant to section 6(f) of FIFRA of propanil use on the small grains for PROPANIL 60 DF (EPA Registration No. 71085–22).

On April 29, 2003, Agriliance, LLC requested voluntary cancellation pursuant to section 6(f) of FIFRA of propanil use on the small grains or PROPANIL 80 EDF (EPA Registration No. 9779–338).

On May 6, 2003, RiceCo, LLC requested voluntary cancellation pursuant to section 6(f) of FIFRA of propanil use on the small grains for the products RICECO PROPANIL TECHNICAL (EPA Registration No. 71085–1) and RICECO PROPANIL TECHNICAL (EPA Registration No. 71085–21).

C. Request for Voluntary Cancellation of Propanil Products

Pursuant to section 6(f)(1)(A) of FIFRA, Agriliance, LLC, Dow AgroSciences, LLC, and RiceCo, LLC have submitted a request to cancel/amend 10 pesticide product uses registered under section 3 of FIFRA containing propanil as listed in the following Table 1:

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENTS OR CANCELLATION

EPA Registration Number	Product Name	Intended Effective Date for Cancellation
9779–338	PROPANIL 80 EDF (Amend label to delete use on spring (hard red) wheat, spring barley, and durum wheat)	July 28, 2003
62719–386	STAMPEDE 3E (Alternate Brand) (Product cancellation) STAM F–34 (Amend label to delete use on spring (hard red) wheat, oats, spring barley, and durum wheat)	July 28, 2003
62719–403	STAM TECHNICAL 98% DCA (Amend label to delete use on spring (hard red) wheat, oats, spring barley and, durum wheat)	July 28, 2003
62719–404	STAMPEDE CM (Product cancellation)	July 28, 2003
62719–413	STAMPEDE 80 EDF (Alternate Brand) (Product cancellation) STAM 80 EDF (Amend label to delete use on spring (hard red) wheat, oats, spring barley, and durum wheat)	July 28, 2003
71085–1	RICECO PROPANIL TECHNICAL (Amend label to delete use on spring (hard red) wheat, spring barley, and durum wheat)	July 28, 2003
71085–21	RICECO PROPANIL TECHNICAL (Amend label to delete use on spring (hard red) wheat, spring barley, and durum wheat)	July 28, 2003
71085–22	PROPANIL 60 DF (Amend label to delete use on spring (hard red) wheat, spring barley, and durum wheat)	July 28, 2003

III. What is the Agency's Authority for Taking this Action?

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that the Agency provide a 30–day period in which the public may comment before EPA may act on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use(s) before granting the request, unless: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrants have requested that EPA waive the 180–day comment period. In light of this request, the Agency is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested cancellations. If the Agency does not receive any comments specific to these cancellations, EPA intends to grant the requested cancellations at the close of the 30–day public comment period for this Notice on July 28, 2003.

A. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for voluntary cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before July 28, 2003. This written withdrawal of the request for voluntary cancellation will apply only to the applicable FIFRA section 6(f)(1) requests listed in Table 1 of this Notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The

withdrawal request must also include a commitment to pay any reregistration fees due and to fulfill any applicable unsatisfied data requirements.

Table 2 of this unit includes the names and addresses of the registrants of the products in Table 1 of this unit:

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company Number	Company Name and Address
9779	Agriliance, LLC, 5600 Cenex Drive, Inver Grove Heights, MN 55077–1723
62719	Dow AgroSciences, LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054
71085	RiceCo, LLC, 5100 Poplar Avenue, Suite 2428, Memphis, TN 38137–2428

B. Provisions for Disposition of Existing Stocks

The Agency intends to prohibit the sale and distribution of existing stocks of the affected propanil products (EPA Registration Nos. 9779–338, 62719–386, 62719–403, 62719–404, 62719–413, and 71085–22) 12 months after publication of this Notice on June 28, 2004.

This is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4).

Exceptions will be made if EPA determines that a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a Data Call-In. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective data of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Propanil, Pesticides and pests.

Dated: June 16, 2003.

Richard P. Keigwin, Jr.,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 03–16331 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7518–6]

Casmalia Disposal Site; Notice of Proposed CERCLA Administrative De Minimis Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), the EPA is hereby providing notice of a proposed administrative de minimis settlement concerning the Casmalia Disposal Site in Santa Barbara County, California (''the Casmalia Disposal Site''). Section 122(g) of CERCLA, 42 U.S.C. 9622(g), provides EPA with the authority to enter into administrative de minimis settlements. This settlement is intended to resolve the liabilities of 25 settling parties for the Casmalia Disposal Site under CERCLA and section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973. The settlement will also resolve the Casmalia Disposal Site-related liabilities of these parties for response costs incurred or to be incurred by the State of California, and for potential natural resource damage claims by State natural resource trustees. For all but one of the settling parties, the settlement will also resolve their Casmalia Disposal Site-related liability for response costs incurred or to be incurred, and potential natural resource damage claims, by the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. The settling parties will pay a total of $8,189,681 to EPA.

DATES: EPA will receive written comments relating to the settlement until July 28, 2003. The EPA will consider all comments it receives during this period, and may modify or withdraw its consent to the settlement if any comments disclose facts or considerations indicating that the settlement is inappropriate, improper, or inadequate. In accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d), commenters may request an opportunity for a public meeting in the affected area. The deadline for requesting a public meeting is July 7, 2003. Requests for a public meeting may be made by calling Karen Goldberg at (415) 972–3951.

ADDRESSES: Written comments should be addressed to Casmalia Case Team, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street (mail code SFD–7), San Francisco, California 94105–3901.

FOR FURTHER INFORMATION CONTACT: Additional information about the Casmalia Disposal Site and about the proposed settlement may be obtained on the Casmalia Web site at: *http://yosemite.epa.gov/r9/sfund/overview.nsf* or by calling Karen Goldberg at (415) 972–3951.

Dated: June 12, 2003.

Nancy Lindsay,

Acting Director, Superfund Division, Region IX.

[FR Doc. 03–16329 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

June 18, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

(b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 28, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0208.

Title: Section 73.1870, Chief Operators.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities; Not-for-profit institutions.

Number of Respondents: 14,500.

Estimated Time per Response: 26.166 hours.

Frequency of Response: Recordkeeping; Third party disclosure.

Total Annual Burden: 379,407.

Total Annual Costs: None.

Needs and Uses: 47 CFR section 73.1870 requires that the licensee of an AM, FM, or TV broadcast station designate a chief operator of the station. Section 73.1870(b)(3) requires that this designation must be in writing and posted with the station license. Section 73.1230 requires that all licensees post station licenses ''at the place the licensee considers the principal control point of the transmitter'' generally at the transmitter site. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files. Section 73.1870(c)(3) requires that the chief operator, or personnel delegated and supervised by the chief operator, review the station records at least once each week to determine if required entries are being made correctly, and verify that the station has been operated in accordance with FCC rules and the station authorization. Upon completion of the review, the chief operator must date and sign the log, initiate corrective action, which may be necessary, and advise the station licensee of any condition, which is repetitive. The posting of the designation of the chief operator is used by interested parties to readily identify the chief operator. The review of the station records is used by the chief operator, and FCC staff in investigations, to assure that the station is operating in accordance with its station authorization and the FCC rules and regulations.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16319 Filed 6–26–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

June 19, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 26, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at 202–418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0059.

Title: Statement Regarding the Importation of Radio Frequency Devices Capable of Harmful Interference.

Form Number: FCC 740.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; Individuals or households; and State, Local, or Tribal Governments.

Number of Respondents: 5,077.

Estimated Time per Response: 1–5 minutes.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 28,030 hours.

Total Annual Costs: None.

Needs and Uses: The FCC, working in conjunction with the U.S. Customs Service, is responsible for the regulation of both authorized radio services and devices that can cause interference. FCC Form 740 must be completed for each radio frequency device, which is imported into the United States, and is used to keep non-compliant devices from being distributed to the general public, thereby reducing the potential for harmful interference being caused to authorized communications. FCC Form 740 may now be filed on paper or by electronic means.

OMB Control Number: 3060–0773.

Title: Section 2.803, Marketing of RF Devices Prior to Equipment Authorization.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 6,000.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 3,000 hours.

Total Annual Costs: None.

Needs and Uses: FCC rules permit the display and advertising of radio frequency (RF) devices prior to equipment authorization or a

determination of compliance, providing that the advertising or display contains a conspicuous notice as specified at 47 CFR Section 2.803(c). A notice must also accompany RF prototype equipment devices offered for sale, as stated in 47 CFR Section 2.803(c)(2), prior to equipment authorization or a showing of compliance, that the equipment must comply with FCC rules prior to delivery. This information informs third parties of the FCC's requirement for the responsible party to comply with its rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16321 Filed 6–26–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISION

Public Information Collections Approved by Office of Management and Budget

December 18, 2002.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for the public information collection FCC Form 325, Annual Report of Cable Television Systems (3060–0061). Therefore, the Commission announces that OMB 3060–0061 is effective December 18, 2002.

DATES: Effective December 18, 2002.

FOR FURTHER INFORMATION CONTACT: Sarah Mahmood, 202–418–7009.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has received OMB approval for the December 2002 edition of the FCC Form 325, Annual Report Of Cable Television Systems. The effective date for use of the revised form is December 18, 2002. Through this document, the Commission announces that it has received this approval; OMB Control No. 3060–0061. Pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Les Smith, Federal Communications Commission, (202) 418–0217.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16322 Filed 6–26–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 96–45; DA 03–1929]

NPCR, Inc. d/b/a/ Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In this document, the Wireline Competition Bureau sought comment on the Nextel Partners Pennsylvania (Nextel Partners PA) petition. Nextel Partners PA seeks designation as an eligible telecommunications carrier (ETC) to receive federal universal service support for service offered in those portions of their licensed service area located in rural study areas in Pennsylvania.

DATES: Comments are due on or before July 7, 2003. Reply comments are due on or before July 14, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Karen Franklin, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400, TTY (202) 418–0494.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice, CC Docket No. 96–45, released June 12, 2003. On April 3, 2003, NPCR, Inc. d/b/a/ Nextel Partners (Nextel Partners PA) filed with the Commission a petition under section 214(e)(6) of the Communications Act of 1934, as amended. In particular, Nextel Partners PA seeks designation as an eligible telecommunications carrier (ETC) to receive federal universal service support for service offered in those portions of Nextel Partners PA's licensed service area located in rural study areas in Pennsylvania currently served by Bentleyville Communications Company, Frontier Communications of Breezewood, Inc., Buffalo Valley Telephone Company, Frontier Communications of Canton, Inc., Commonwealth Telephone Company, Conestoga Telephone & Telegraph Company, Denver and Ephrata Telephone & Telegraph Company, Ironton Telephone Company, Lackwaxen Telecommunications Services, Inc., Laurel Highland Telephone Company, Mahanoy and Mahantongo Telephone Company, Marianna & Scenery Hill Telephone Company, North Eastern Pennsylvania Telephone Company, North Penn Telephone Company, Armstrong Telephone Company—North, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, Sugar Valley Telephone Company, Venus Telephone Corporation, and West Side Telecommunications.

Nextel Partners PA contends that the Pennsylvania Public Utility Commission (Pennsylvania Commission) lacks jurisdiction to consider Nextel Partners PA's petition because wireless carriers are not subject to state jurisdiction in Pennsylvania. Hence, according to Nextel Partners PA, the Commission has jurisdiction under section 214(e)(6) to consider and grant its petition. Nextel Partners PA also maintains that it satisfies all the statutory and regulatory prerequisites for ETC designation, and that designating Nextel Partners PA as an ETC will serve the public interest.

The petitioner must provide copies of its petition to the Pennsylvania Commission. The Commission will also send a copy of this Public Notice to the Pennsylvania Commission by overnight express mail to ensure that the Pennsylvania Commission is notified of the notice and comment period.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments as follows: comments are due July 7, 2003 and reply comments are due July 14, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 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. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking

number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 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. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054.

Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure.

Federal Communications Commission.

Paul Garnett,

Acting Assistant Division Chief, Wireline Competition Bureau Telecommunications Access Policy Division.

[FR Doc. 03–16320 Filed 6–26–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–1974]

Private Land Mobile Radio License Renewal Only Process

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Federal Communications Commission's (FCC's) Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau clarifies the process for renewing private land mobile radio (PLMR) licenses. It has come to the FCC staff's attention that there is some confusion among PLMR licensees regarding license renewal. This is intended to facilitate ease and familiarity of the PLMR license renewal process for FCC customers.

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

FOR FURTHER INFORMATION CONTACT: Concerning the PLMR renewal process, persons may contact the FCC's Licensing and Technical Analysis Branch at (717) 338–2646. For general information about the ULS, including answers to frequently asked questions regarding submitting applications, finding the status of pending applications, and searching the ULS database, the FCC recommends first consulting the ULS Web page at *http://wireless.fcc.gov/uls.* Also, persons may contact ULS/Auctions Hotline at 1–888–CALLFCC (225–5322), choose option #2 or (717) 338–2888 for questions about application matters. E-mail questions may be sent to *ulshelp@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's *Public Notice*, DA 03–1974, released on June 16, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. Private Land Mobile Radio (PLMR) licenses are granted for a specific period of time. Licensees must file a renewal application with the FCC prior to license expiration to continue to operate under their licenses after the specified expiration date. It is very important that licensees follow the correct procedure in renewing their licenses. Otherwise, they risk losing the license(s).

2. To assist PLMR licensees in renewing their licenses, the FCC's Wireless Telecommunications Bureau (Bureau) sends out a renewal notice approximately ninety days before the license expiration date to remind licensees of the pending expiration. This renewal reminder, however, is merely a courtesy and non-receipt of this notice by the licensee is not sufficient justification for the licensee's failure to file a timely renewal application with the FCC. Under the FCC's licensing procedures, licensees are fully responsible for knowing the term of their licenses and for filing a timely renewal application. Even licensees engaged in public safety activities are expected to comply with the renewal filing requirements.

3. It has come to the FCC's attention that there is some confusion among PLMR licensees regarding license renewal. Accordingly, the Bureau has taken several steps to minimize this confusion. First, it has modified the renewal reminder notice in an effort to make it clearer which FCC Form needs to be submitted for renewal purposes. Second, the Bureau has modified the manual filing instructions on the FCC's Universal Licensing System (ULS) Web page to make it easier for licensees to understand how to renew a PLMR license manually. Finally, the Bureau outlines the specific procedures governing the PLMR renewal process for manually-filed applications. Specifically, this public notice discusses such topics as when and where to file renewal applications, defects that will result in the dismissal of a renewal application, and what to do in the event a licensee fails to timely file a renewal. We anticipate that these actions will facilitate ease and familiarity of the PLMR license renewal process for FCC customers.

Manual Renewal Only Process

4. *When to File* (*i.e.*, Filing Window). An application to renew a PLMR license

must be properly filed with the FCC no later than the expiration date of the authorization and no sooner than ninety days prior to the expiration.

5. *Renewal Form.* For manually-filed PLMR license renewal applications (paper filings by mail), entities must use FCC Form 601. The form is available at *http://www.fcc.gov/formpage.html* or by calling our toll free forms number (1–800–418–3676). To file a ''Renewal Only'' application (*i.e.*, an application only requesting renewal of a PLMR authorization) for a single call sign, applicants only need to file the FCC Form 601—Main Form. If renewing multiple call signs, applicants must also file the FCC Form 601—Schedule A. The fields on the FCC Form 601 that an applicant must complete for paper filing by mail are listed on an attachment to this Public Notice. If assistance is needed to complete the FCC Form 601, persons may call the ULS/Auctions Hotline at 1–888–225–5322, select option 2.

6. *Fees.* Use FCC Form 1070M to determine the appropriate fee information. If a fee is required, applicants must complete FCC Form 159 with the appropriate payment code. These two forms can be obtained at *http:/www.fcc.gov/formpage.html* or by calling the toll free forms number (1–800–418–3676). PLMR eligibles filing as governmental entities are exempt from fee payment. Also, certain non-profit entities are eligible for a partial fee exemption. If uncertainty exists regarding such eligibility, please refer to the Wireless Telecommunications Bureau Fee Filing Guide available at *http://www.fcc.gov/fees/appfees.html* or call the FCC's Consumer Center at 1–888–225–5322, select option 2.

7. *Where to File.* Non-feeable applications should be sent to the following address: Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325–7245.

Feeable applications (along with a completed FCC Form 159 and applicable fee) should be sent to the following address: Federal Communications Commission, Wireless Bureau Applications, PO Box 358245, Pittsburgh, PA 15251–5245.

8. Applications with one or more of the defects listed below will be dismissed by the Bureau as defective, rather than returned to the applicant for correction. Consequently, these defects are fatal to the consideration of a PLMR renewal application.

- Applicant files on the wrong FCC Form.
- Applicant fails to sign the application form.
- Applicant fails to pay the correct filing fee.
- Application is filed after expiration and does not include a waiver request.
- Application does not include the proper FCC Registration Number (FRN).

9. Applicants should be aware that applications that are dismissed as defective and subsequently refiled are considered newly-filed applications (*i.e.*, the application loses its original place in the processing line). As newly-filed renewal applications, they may be deemed untimely with respect to the filing window for renewal applications. In addition, these refiled applications must be accompanied by a new filing fee if a fee was originally required. Therefore, it is very important that manually-filed renewal applications be properly filed the first time.

10. *Renewal Applications Filed Outside the Filing Window.* Renewal applications filed with the FCC sooner than ninety days prior to license expiration and not requesting a waiver will be dismissed. Renewal applications that are late-filed (up to, and including thirty days after expiration) will be granted *nunc pro tunc* if the application is otherwise sufficient under the rules and is accompanied by a request for waiver, but the licensee may be subject to an enforcement action for unauthorized operation during this time frame (*e.g.*, operation during the time between the expiration of the license and a Commission action authorizing operation). PLMR applicants who file renewal-only applications more than thirty days after the license expiration date may also request that the license be renewed *nunc pro tunc,* but such requests will not be routinely granted, will be subject to stricter review, and also may be accompanied by enforcement action, including more significant fines or forfeitures. Requests to grant a late-filed application (more than 30 days after expiration) also must be accompanied by a request for a waiver of the FCC's Rules. In determining whether to grant a late-filed renewal application and associated waiver, the Bureau will consider all of the facts and circumstances, including the length of the delay in filing, the reasons for the failure to timely file, the potential consequences to the public if the license should terminate and the performance record of the licensee. It is up to the applicant to provide sufficient justification for grant of the late-filed renewal. [**Note:** The Bureau will not routinely grant waiver requests solely because the applicant is engaged in public safety activities.]

11. *FCC Registration Number (FRN).* Anyone doing business with the FCC must obtain an FRN. In order to file a renewal application, applicants must provide the correct FRN information on the application. In order to ascertain the FRN associated with the call sign(s) to be renewed, the licensee can query the call signs using ULS at *http://wireless.fcc.gov/uls/.* If an FRN is associated with the call sign(s) it will be displayed on the Query Results Screen. If there is no FRN listed for the call sign(s) in question, then the licensee must register for an FRN and associate it with the call sign(s) of the station(s) being renewed. Entities may obtain an FRN by completing a FCC Form 160 or file online at *http://wireless.fcc.gov/uls/* by selecting ''Register CORES/Call Sign.'' Since improper FRN information on a PLMR renewal application is a fatal defect, applicants are encouraged to verify this information prior to filing. Also, to assist in FRN registration the FCC provides additional information at *http://svartifoss2.fcc.gov/cores/CoresHome.html* under Frequently Asked Questions.

12. *Operation After Scheduled License Expiration.* A licensee may continue to operate its station(s) under its existing authorization(s) provided the licensee has a properly filed renewal application for that station on file with the FCC on or before the scheduled date for license expiration. It should be noted that such continued operation is authorized even if the renewal application has been returned by FCC staff for correction. Licensees, however, may not operate under an expired authorization if the renewal application was filed after the license expiration date or if the renewal application was filed prior to expiration but was later dismissed by the FCC. In either of these two instances, if the licensee wants to continue to operate, it must file for and obtain a Special Temporary Authority (STA) from the FCC. Absent grant of a STA, the entity is no longer authorized to operate on the subject frequencies. Moreover, continued operation under either of these circumstances would be violative of the FCC's Rules and the Communications Act of 1934, as amended. Applicants can apply for an STA interactively or manually. To file interactively, *see http://wireless.fcc.gov/uls/* and select online filing. To file manually, entities must submit FCC Form 601 (main form) with the appropriate schedule(s) for the radio service in which they are licensed, plus any attachments that are required. For STA applications, the purpose of the filing (field 2 on the FCC Form 601) would be new (NE).

Federal Communications Commission.

D'wana R. Terry,

Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 03–16338 Filed 6–26–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting, Thursday, June 26, 2003

June 19, 2003.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, June 26, 2003, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	WIRELESS TELE-COMMUNICATIONS	*Title:* Implementation of Section 6002 (b) of the Omnibus Budget Reconciliation Act of 1993 (WT Docket No. 02–379); and Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services. *Summary:* The Commission will consider an Eighth Report concerning the status of competition with respect to Commercial Mobile Services.
2	INTERNATIONAL	*Title:* Amendment of the Commission's Space Station Licensing Rules and Policies (IB Docket No. 02–34); and 2000 Biennial Regulatory Review—Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations (IB Docket No. 00–248). *Summary:* The Commission will consider a Third Report and Order and Second Further Notice of Proposed Rulemaking concerning issues raised by proposed revisions to satellite and earth station license application forms.
3	CONSUMER & GOVERNMENTAL AFFAIRS.	*Title:* Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02–278). *Summary:* The Commission will consider a Report and Order concerning its rules on unsolicited advertising over the telephone and facsimile machine.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322.

Audio/Video coverage of the meeting will be broadcast live over the Internet from the FCC's Audio/Video Events web page at *http://www.fcc.gov/realaudio.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.* Audio and video tapes of this meeting can be purchased from CACI Productions, 341 Victory Drive, Herndon, VA 20170, (703) 834–1470, Ext. 19; Fax (703) 834–0111.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@aol.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16486 Filed 6–25–03; 2:36 pm]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement Of Board Approval Under Delegated Authority And Submission To OMB

SUMMARY: *Background*

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Clearance Officer—Cindy Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

OMB Desk Officer—Joseph Lackey—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final Approval Under OMB Delegated Authority Of The Extension For Three Years, With Revision, Of The Following Reports:

1. Report title: Report of Transaction Accounts, Other Deposits, and Vault Cash

Agency form number: FR 2900

OMB Control number: 7100–0087

Frequency: Weekly, quarterly

Reporters: Depository institutions

Annual reporting hours: 779,506 hours

Estimated average hours per response: 3.50 hours

Number of respondents: 3,888 weekly and 5,135 quarterly

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a), 461, 603, and 615) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: Nonexempt institutions B currently defined as those with reservable liabilities greater than the exemption amount B file the FR 2900 weekly if their total deposits are greater than or equal to the nonexempt deposit cutoff and quarterly if their total deposits are less than the nonexempt deposit cutoff. U.S. branches and agencies of foreign banks and Edge and agreement corporations are required to report the FR 2900 weekly regardless of their deposit size. These mandatory

reports are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and controlling the monetary and reserve aggregates.

Current actions: The Federal Reserve will: (1) change the definition of ''nonexempt institutions,'' effective with the September 2003 panel shift; (2) institute a new ''reduced reporting limit'' B any institution with total deposits at or above a $1 billion reduced reporting limit will report the FR 2900 weekly, effective with the September 2003 panel review; (3) reduce the reporting frequency for the two nonpersonal time deposit items on the FR 2900 to one day each year, effective September 2003; (4) raise the nonexempt deposit cutoff to $150.0 million, an upward adjustment from the 2003 indexed level of $112.3 million, effective for the September 2003 panel review; and (5) add the item ''net Eurocurrency liabilities'' to the FR 2900, to be reported one day each year beginning June 2004.

2. Report title: Annual Report of Total Deposits and Reservable Liabilities

Agency form number: FR 2910a

OMB Control number: 7100–0175

Frequency: Annually

Reporters: Depository institutions

Annual reporting hours: 3,052 hours

Estimated average hours per response: 30 minutes

Number of respondents: 6,103

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a) and 461) and is given confidential treatment (5 U.S.C. 552 (b)(4)).

Abstract: Currently, the FR 2910a is filed by (non–FR 2900) institutions whose total deposits are greater than or equal to the exemption amount and by all other institutions whose total deposits cannot be verified as being below the exemption amount. This mandatory report is used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and controlling the monetary and reserve aggregates.

Current actions: The Federal Reserve will add the item ''net transaction accounts'' to the FR 2910a, effective June 2003; and change the reporting date for the FR 2910a to June 30th, effective June 2003.

3. Report title: Report of Repurchase Agreements (RPs) on U.S. Government and Federal Agency Securities with Specified Holders

Agency form number: FR 2415

OMB control number: 7100–0074

Frequency: Weekly, quarterly, or annually

Reporters: U.S chartered commercial banks, U.S branches and agencies of foreign banks, thrift institutions, and credit unions

Annual reporting hours: 2,615 hours

Estimated average hours per response: 30 minutes

Number of respondents: 84 weekly, 128 quarterly, and 350 annually

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2) and 3105(b)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This voluntary report collects one data item, repurchase agreements (RPs), in denominations of $100,000 or more, in immediately–available funds, on U.S. government and federal agency securities, transacted with specified holders. Depository institutions file the FR 2415 report either weekly, quarterly or annually depending on the volume of their RPs. In general, the larger the respondent's level of RPs, the more frequent its reporting. The weekly panel reports daily data once each week; the quarterly panel files daily data for the four one–week reporting periods that contain quarter–end dates; the annual panel reports daily data only for the week encompassing June 30 each year. The primary purpose of the data is for construction of the RP component of the M3 monetary aggregate and for analysis of depository institutions' funding practices.

Current actions: The Federal Reserve will: (1) raise the thresholds for re–screening existing FR 2415 respondents on all three reporting panels; (2) reduce the cutoff for screening U.S. banks that do not file the FR 2415; and (3) add credit unions to the existing reporting panels.

4. Report title: Monthly Survey of Industrial Electricity Use

Agency form number: FR 2009a,b,c

OMB Control number: 7100–0057

Frequency: Monthly

Reporters: FR 2009a/c: Electric utility companies; and FR 2009b: Cogenerators

Annual reporting hours: FR 2009a/c: 1,920 hours; and FR 2009b: 900 hours

Estimated average hours per response: FR 2009a/c: 1 hour; and FR 2009b: 30 minutes

Number of respondents: FR 2009a/c: 160; and FR 2009b: 150

Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 225a, 263, 353 et seq, and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The survey collects information on the volume of electric power delivered during the month to classes of industrial customers. There are three versions of the survey: the FR 2009a and FR 2009c collect information from 137 electric utilities, the FR 2009a in Standard Industrial Codes (SIC) codes and the FR 2009c in North American Industry Classification System (NAICS) codes. The FR 2009b collects information from 124 manufacturing and mining facilities that generate electric power for their own use (cogenerators). The electric power data are used in deriving the Federal Reserve's monthly index of industrial production (IP) as well as for calculating the monthly estimates of electric power used by industry. The IP index is widely used by the Federal Reserve, other government agencies, businesses, and academia for economic analysis, policy review, and research.

Current actions: The Federal Reserve proposes to continue using the FR 2009a report form. This report form was approved for discontinuance in 2000 owing to the industrial output index being revised to reflect the new North American Industry Classification System (NAICS) from the Standard Industrial Classification (SIC) codes. However, many respondents continue to prefer reporting in SIC codes. The FR 2009c is in the same format as the FR 2009a but uses NAICS instead of SIC codes. The Federal Reserve also proposes to reduce the authorized panel size to 160 utilities and 150 cogenerators to more accurately reflect the target population.

5. Report titles: Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and Quarterly Report of Credit Card Plans

Agency form numbers: FR 2835 and FR 2835a

OMB control number: 7100–0085

Frequency: Quarterly

Reporters: Commercial banks

Annual reporting hours: FR 2835: 90 hours; and FR 2835a: 160 hours

Estimated average hours per response: FR 2835: 9 minutes; and FR 2835a: 30 minutes

Number of respondents: FR 2835: 150; and FR 2835a: 80

Small businesses are not affected.

General description of report: These information collections are voluntary (12 U.S.C. 248(a)(2)). The FR 2835a individual respondent data are given confidential treatment (5 U.S.C. 552 (b)(4)), the FR 2835 data however, is not given confidential treatment.

Abstract: The FR 2835 collects the most common interest rate charged at a sample of 150 commercial banks on two

types of consumer loans made in a given week each quarter: new auto loans and other loans for consumer goods and personal expenditures.

The FR 2835a collects information on two measures of credit card interest rates from a sample of 100 commercial banks (authorized panel size), selected to include banks with $1 billion or more in credit card receivables, and a representative group of smaller issuers. The data are representative of interest rates paid by consumers on bank credit cards because the panel includes virtually all large issuers and an appropriate sample of other issuers.

Current Actions: The Federal Reserve proposes to decrease the authorized sample size for the FR 2835a from 100 commercial banks to 80 commercial banks; 24 banks currently report. The proposed decrease in panel size would lower the total estimated annual burden from 304 hours to 264 hours.

6. Report title: Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates

Agency form numbers: FR Y–8

OMB control number: 7100–0126

Frequency: Quarterly

Reporters: Bank holding companies (BHC), financial holding companies, and foreign banking organizations (FBO)

Annual reporting hours: 159,619 hours

Estimated average hours per response: 7.8 hours

Number of respondents: 5,116

Small businesses are affected.

General description of report: This information collection is authorized by section 5(c) of the BHC Act (12 U.S.C. 1844 (c)) and section 225.5 (b) of Regulation Y (12 CFR 225.5 (b)) and is given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. 552 (b)(4) and (8)).

Abstract: This report collects information on transactions between an insured depository institution and its affiliates that are subject to section 23A of the Federal Reserve Act. The information is used to enhance the Federal Reserve's ability to monitor bank exposures to affiliates and to ensure compliance with section 23A of the Federal Reserve Act. Section 23A of the Federal Reserve Act is one of the most important statutes on limiting exposures to individual institutions and protecting against the expansion of the federal safety net.

Current actions: On April 1, 2003, the Federal Reserve published a notice soliciting comments for 60 days on proposed revisions to the Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates (68 FR 15728). The Federal Reserve received comment letters from one bank holding company (BHC) trade association and from a small BHC.

The Federal Reserve proposed to add one new item to enhance the ability to monitor compliance with section 23A and three new items on derivative transactions between insured depository institutions and their affiliates to assist in monitoring derivative transactions and establishing policy for regulating such transactions. In addition, the Federal Reserve also proposed to revise the instructions to reflect interpretations and definitions included in Regulation W, the rule that comprehensively implements sections 23A and 23B of the Federal Reserve Act. The new rule was effective April 1, 2003.

One commenter suggested that the Federal Reserve should consider alternate methods to collect the information on derivative transactions between the insured depository institution and their affiliates and questioned the appropriateness of collecting these items on the FR Y–8. The commenter suggested that the Federal Reserve should continue to rely on on–site examinations or survey a specified group of banking organizations on an annual or semi–annual basis to meet the Federal Reserve's need for the information on derivative transactions and to minimize the burden on respondents. Should the Federal Reserve decide to implement the collection of derivative information as proposed, the commenter requested that the Federal Reserve consider delaying the collection of the derivative transaction information until December 2003 to provide respondents with additional time to implement the proposed changes.

The Federal Reserve believes that the collection of information concerning derivative transactions between insured depository institutions and their affiliates on the FR Y–8 is appropriate and necessary to ensure that banks are monitoring the exposure to affiliates from derivative transactions in accordance with Regulation W. Quarterly collection of information on derivative transactions would enable the Federal Reserve to better monitor trends in intercompany derivative transactions between on–site examinations and enable the Federal Reserve to conduct risk–focused examinations. The collection of information on the FR Y–8 report facilitates pre–analysis work and conserves on–site examination resources for verification of compliance and a review of pertinent issues, minimizing examination burden on respondents.

As indicated in the initial proposal, the Federal Reserve believes that the information necessary to report the proposed derivative items should be readily available from the insured depository institutions' internal risk management reports. However, after reviewing the comment received concerning the collection of the new derivative information, the Federal Reserve will postpone the collection of the three new derivative items until December 31, 2003. All other proposed revisions to the FR Y–8, including the new memorandum item to collect maximum aggregate amount of covered transactions, would be effective with the June 30, 2003 report date.

Another commenter suggested that bank holding companies with a single covered transaction be permitted to file the FR Y–8 report on a one–time basis or annually. Quarterly reporting enhances the Federal Reserve's ability to monitor ongoing compliance with section 23A and to monitor trends on an aggregate basis. The reporting frequency will remain the same for all insured depository institutions.

Final Approval Under OMB Delegated Authority The Extension For Three Years, Without Revision, Of The Following Reports:

1. Report title: Allocation of Low Reserve Tranche and Reservable Liabilities Exemption

Agency form number: FR 2930/2930a

OMB control number: 7100–0088

Frequency: Annually and on occasion

Reporters: Depository institutions

Annual reporting hours: 47 hours

Estimated average hours per response: 15 minutes

Number of respondents: 186

Small businesses are affected.

General description of report: This information collection is mandatory: FR 2930 (12 U.S.C. 248(a), 461, 603, and 615) and FR 2930a (12 U.S.C. 248(a) and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2930 and FR 2930a provide information on the allocation of the low reserve tranche and reservable liabilities exemption for depository institutions having offices (or groups of offices) that file separate FR 2900 deposit reports. The data collected on these reports are needed for the calculation of required reserves.

2. Report title: Report of Foreign (Non–U.S.) Currency Deposits

Agency form number: FR 2915

OMB control number: 7100–0237

Frequency: Quarterly

Reporters: Depository institutions

Annual reporting hours: 306 hours
Estimated average hours per response: 30 minutes
Number of respondents: 153
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 248(a)(2) and 347(d)) and is given confidential treatment (5 U.S.C. 552(b)(4)).
Abstract: The FR 2915 collects weekly averages of the amounts outstanding for foreign (non–U.S.) currency deposits held at U.S. offices of depository institutions, converted to U.S. dollars and included in the FR 2900. Foreign currency deposits are subject to reserve requirements and, therefore, are included in the FR 2900. However, because foreign currency deposits are not included in the monetary aggregates, the FR 2915 data are used to remove foreign currency deposits from FR 2900 data in calculating the monetary aggregates. FR 2915 data also are used to monitor the volume of foreign currency deposits.
3. Report title: The Senior Loan Officer Opinion Survey on Bank Lending Practices
Agency form number: FR 2018
OMB Control number: 7100–0058
Frequency: Up to six times a year
Reporters: Large U.S. commercial banks and large U.S. branches and agencies of foreign banks
Annual reporting hours: 1,008 hours
Estimated average hours per response: 2 hours
Number of respondents: 84
Small businesses are not affected.
General description of report: This information collection is voluntary (12 U.S.C. 248 (a), 324, 335, 3101, 3102, and 3105) and is given confidential treatment (5 U.S.C. 552 (b)(4)).
Abstract: The FR 2018 is conducted with a senior loan officer at each respondent bank up to six times a year. The purpose of the survey is to provide qualitative information with respect to bank credit developments on current price and flow developments and evolving techniques and practices in the U.S. banking sector. Consequently, a significant portion of the questions in each survey consists of unique questions on topics of timely interest. There is the option to survey other types of respondents (such as other depository institutions, bank holding companies, or corporations) should the need arise. The FR 2018 survey provides crucial information for monitoring and understanding the evolution of lending practices at banks and developments in credit markets.
4. Report title: Senior Financial Officer Survey
Agency form number: FR 2023
OMB Control number: 7100–0223
Frequency: Up to four times a year
Reporters: Large commercial banks
Annual reporting hours: 240 hours
Estimated average hours per response: 1 hour
Number of respondents: 60
Small businesses are not affected.
General description of report: This information collection is voluntary (12 U.S.C. 225a, 248(a), and 263). It has been anticipated that most, if not all, of the information to be collected on the FR 2023 would be exempt from disclosure under subsection (b)(4) of the Freedom of Information Act (5 U.S.C. 552 (b)(4)). However, it also is possible that some information that might be collected on this survey may not be exempt, depending on the specific questions to be asked. Thus, the confidentiality status of the survey would be determined on a case–by–case basis.
Abstract: The FR 2023 collects qualitative and limited quantitative information about liability management, the provision of financial services, and the functioning of key financial markets from a selection of sixty large commercial banks (or, if appropriate, from other depository institutions or major financial market participants). Although the primary panel of respondents has been, and will likely continue to be, appropriate for most survey topics, panels based on alternative criteria may be more appropriate and efficient for some situations. Consequently, the option would continue to be available to survey other depository institutions or major participants in financial markets. This option greatly enhances the potential scope and utility of the survey. Responses are obtained from a senior officer at each participating institution through a telephone interview. The survey is conducted when major informational needs arise and cannot be met from existing data sources. The survey does not have a fixed set of questions; each survey consists of a limited number of questions directed at topics of timely interest. The survey helps pinpoint developing trends in bank funding practices, enabling the Federal Reserve to distinguish these trends from transitory phenomena.

Final Approval Under OMB Delegated Authority The Discontinuation Of The Following Report:

1. Report title: Report of Certain Eurocurrency Transactions
Agency form number: FR 2950/2951
OMB control number: 7100–0087
Frequency: Weekly, quarterly
Reporters: Depository institutions
Annual reporting hours: 20,248 hours
Estimated average hours per response: 1 hour
Number of respondents: 389 weekly and 5 quarterly
Small businesses are affected.
General description of report: This information collection is mandatory: FR 2950 (12 U.S.C. 248(a), 461, 603, and 615) and FR 2951 (12 U.S.C. 248(a), 461, and 347(d)) and is given confidential treatment (5 U.S.C. 552(b)(4)).
Abstract: The FR 2950/2951 collects information on Eurocurrency liabilities from depository institutions that obtain funds from foreign (non–U.S.) sources or that have foreign branches. This report is filed with the same frequency as the FR 2900. These mandatory reports are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and controlling the monetary and reserve aggregates.
Current actions: The Federal Reserve will discontinue the FR 2950/2951 in May 2004, contingent upon some report items being added to the bank credit family of reports. (The Weekly Report of Assets and Liabilities for Large Banks: FR 2416; OMB No. 7100–0075; the Weekly Report of Selected Assets: FR 2644; OMB No. 7100–0075; and the Weekly Report of Assets and Liabilities for Large U.S Branches and Agencies of Foreign Banks: FR 2069; OMB No. 7100–0030).

Final Approval Under OMB Delegated Authority To Conduct The Following Survey:

1. Report title: Survey of Small Business Finances
Agency form number: FR 3044
OMB control number: 7100–0262
Frequency: One–time
Reporters: Small businesses
Annual reporting hours: 5,100 hours
Estimated average hours per response: 1 hour
Number of respondents: 5,100
Small businesses are affected.
General description of report: This information collection would be voluntary and authorized by law (12 U.S.C. 252(a)(1), 1817(j), and 1841 et seq.). Individual respondent data would be provided in a public–use file. However, any information that could identify respondent firms, or the financial institutions that they use, would be excluded from the public dataset pursuant to the Freedom of Information Act (5 U.S.C. 552(b)(4)).
Abstract: This voluntary survey would be similar to the 1987, 1993, and 1998 Surveys of Small Business

Finances (SSBF). In part, this survey would be conducted to collect information needed to satisfy the requirements of Section 2227 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. This law requires the Board to conduct a study and submit a report to the Congress every five years ''...detailing the extent of small business lending by all creditors....''

The 2003 SSBF would gather data from small businesses on their financial relationships, credit experiences, lending terms and conditions, income and balance sheet information, the location and types of financial institutions used, and other firm characteristics. The survey would be conducted by a private survey firm, which would be chosen in a competitive bidding process. In conjunction with the Federal Reserve, the survey firm would update and finalize the questionnaire for the new survey. The survey firm would then conduct two pretests with a minimum of fifty small business firms in each pre–test. Following pre–test revisions to the questionnaire, the survey would be conducted by means of computer–assisted telephone interviews. Interviewing would likely commence in early 2004.

Board of Governors of the Federal Reserve System, June 23, 2003.

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. 03–16270 Filed 6–26–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 15, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. David A. Bochnowski, Munster, Indiana; to acquire voting shares of NorthWest Indiana Bancorp, Munster, Indiana, and thereby indirectly acquire voting shares of Peoples Bank SB, Munster, Indiana.

B. Federal Reserve Bank of Kansas City (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Robin K. Buerge, individually, and Robin K. Buerge Revocable Trust, Tulsa, Oklahoma; Robin K. Buerge, Trustee; Steven Buerge Voting Trust, Fort Scott, Kansas; Robin K. Buerge, Trustee; APB Investments, LLC, Tulsa, Oklahoma; and Robin K. Buerge, Manager; acting in concert to acquire voting shares of Grand Lake Bancorp, Inc., Tulsa, Oklahoma, and thereby indirectly acquire voting shares of Grand Lake Bank, Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, June 24, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–16365 Filed 6–26–03; 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 21, 2003.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of Two Rivers Corporation, Grand Junction, Colorado, and thereby indirectly acquire voting shares of Bank of Grand Junction, Grand Junction, Colorado.

Board of Governors of the Federal Reserve System, June 23, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–16271 Filed 6–26–03; 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 25, 2003.

A. Federal Reserve Bank of Kansas City (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Hume Bancshares Acquisition Corp, St. Louis, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Hume Bancshares, Inc., Hume, Missouri, and thereby indirectly acquire voting shares of Hume Bank, Hume, Missouri.

Board of Governors of the Federal Reserve System, June 24, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–16366 Filed 6–26–03; 8:45 am]

BILLING CODE 6210–01–S

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Notice of Intent To Extend an Information Collection

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Harry S. Truman Scholarship Foundation (Foundation) will publish periodic summaries of proposed projects.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by August 28, 2003, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Contact Louis H. Blair, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006; telephone 202–395–4831; or send e-mail to *lblair@truman.gov.* You also may obtain a copy of the data collection instrument and instructions from Mr. Blair.

SUPPLEMENTARY INFORMATION:

Title of Collection: Truman Scholarship Application.

OMB Approval Number: 3200–0004.

Expiration Date of Approval: 08/03.

Type of Request: Intent to seek approval to extend an information collection for three years.

Proposed Project: The Foundation has been providing scholarships since 1977 in compliance with Public Law 93–642. This data collection instrument is used to collect essential information to enable the Truman Scholarship Finalists Selection Committee to determine whom to invite to interviews. It is used by Regional Review Panels as essential background information on the Finalists whom they interview and ultimately the Truman Scholars they select. A total response rate of 100% was provided by the 635 candidates who applied for Year 2003 Truman Scholarships.

Estimate of Burden: The Foundation estimates that, on average, 50 hours per respondent will be required to complete the application, for a total of 35,000 hours for all respondents.

Respondents: Individuals.

Estimated Number of Responses: 700.

Estimated Total Annual Burden on Respondents: 35,000 hours.

Dated: June 25, 2003.

Louis H. Blair,

Executive Secretary.

[FR Doc. 03–16472 Filed 6–26–03; 8:45 am]

BILLING CODE 6820–AD–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary; Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

John W. Rooney, Ph.D., Columbia University: Based on the report of an investigation conducted by Columbia University (CU) (CU Report), an admission by the respondent, and additional analysis performed by ORI in its oversight review, the U.S. Public Health Service (PHS) found that John W. Rooney, Ph.D., former postdoctoral research fellow, CU, engaged in scientific misconduct by falsifying research supported by National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH), grant T32 HL007343, National Institute of Allergy and Infectious Diseases (NIAID), NIH, grant R01 AI043576, National Institute of General Medical Sciences (NIGMS), NIH, grant R01 GM029361, and National Cancer Institute (NCI), NIH, grants P01 CA075399 and R01 CA076496.

Specifically, PHS found that Dr. Rooney engaged in scientific misconduct by:

- Falsifying Panels A–C of Figure 1 in the following paper: Rooney, J.W. & Calame, K.L. ''TIF1beta functions as a coactivator for C/EBPbeta and is required for induced differentiation in the myelomonocytic cell line U937.'' *Genes and Development 15:3023–3038, 2001;* the respondent falsely claimed that high levels of expression of the TIF1 gene were induced by dimethylsulfoxide and a phorbol ester; and
- Falsifying Figure 3 in the original and Figures 6 and 7 in a revised version of a manuscript (Rooney, J.W., Postel, E.H., & Calame, K.L. ''The DNA-cleavage function of NM23–H2/Puf is essential for myeloid differentiation and for transcription of myeloid-specific genes,'' submitted to *Molecular and Cellular Biology*). The respondent falsely claimed that wild-type NM23–H2/Puf protein could cleave DNA promoter sequences in all five purported target genes and that the K12Q mutant protein could not cleave any of them. The respondent also falsely claimed in electrophonetic mobility shift assays that two authentic oligonucleotides bound to the NM23–H2/Puf protein when they did not do so.

The Genes and Development paper has been retracted (*Genes and Development 16:2170, 2002*), and CU has indicated that the *Molecular and Cellular Biology* manuscript will not be resubmitted until all of Dr. Rooney's data have been replaced by the work of others.

Dr. Rooney has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed for a period of three (3) years, beginning on May 16, 2003:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions of the United States Government as defined in 45 CFR Part 76; and

(2) To exclude himself from serving in any advisory capacity to PHS including

but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (301) 443–5330.

Lawrence J. Rhoades,

Acting Director, Office of Research Integrity.

[FR Doc. 03–16285 Filed 6–26–03; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–03–80]

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 Seleda Perryman, 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: Descriptive Epidemiology of Missed or Delayed Diagnoses for Conditions Detected by Newborn Screening—New—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Every state in the United States and Washington, DC, has a public health program to test newborn babies for congenital metabolic and other disorders through laboratory testing of dried blood spots. These programs screen for between 4 and 30 different conditions including phenylketonuria (PKU) and congenital hypothyroidism, with testing performed in both state laboratories and private laboratories contracted by state health departments. The screening process or system is broader than the state public health newborn screening program, which is composed only of the laboratory and follow-up personnel. It involves the collection of blood from a newborn, analysis of the sample in a screening laboratory, follow-up of abnormal results, confirmatory testing and diagnostic work-up. Parents, hospitals, medical providers including primary care providers and specialists, state laboratory and follow-up personnel, advocates, as well as other partners such as local health departments, police, child protection workers, and courts play important roles in this process. Most children born with metabolic disease are identified in a timely manner and within the parameters defined by the newborn screening system of each state. These children are referred for diagnosis and treatment. However, some cases are not detected at all or the detection comes too late to prevent harm. These ''missed cases'' often result in severe morbidity such as mental retardation or death.

In this project, we will update and expand a previous epidemiological study of missed cases of two disorders published in 1986. We will assess the number of cases of each disorder missed, the reasons for the miss and legal outcomes, if any. The reasons for the miss will be tabulated according to which step or steps of the screening process it occurred. Data will be collected by asking state public health laboratory directors, newborn screening laboratory managers, follow-up coordinators, specialists at metabolic clinics and parent groups with an interest in newborn screening for information regarding missed cases. An estimated 250 subjects will be requested to complete a short questionnaire that asks for information regarding the details of any missed cases of which they are aware. There is no cost to the respondents.

The survey will highlight procedures and actions taken by states and other participants in newborn screening systems to identify causes of missed cases and to modify policies and procedures to prevent or minimize recurrences. The information gleaned from this study may be used to help craft changes in the screening protocols that will make the process more organized and efficient and less likely to fail an affected child. Further, it is not clear that there is a systematic assessment of missed cases on a population basis; this project will seek to identify procedures for routine surveillance of missed cases. There are no costs to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden (in hrs.) per response	Total burden (in hrs.)
Data Collection Form	225	1	10/60	37.5
Total				37.5

Dated: June 23, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–16280 Filed 6–26–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–03–83]

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: Pilot Study to Evaluate Two Alternative Methods to Characterize Potential Exposures of Miners to Hazardous Chemicals—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

NIOSH is planning to conduct a pilot study to assess the feasibility of using alternate, existing information sources to update estimates of potential exposures of miners to hazardous chemicals. Estimates of potential exposures of miners to hazardous chemicals are currently based on the National Occupational Health Survey of Miners (NOHSM, DHHS (NIOSH) Publication No. 96–136), which was conducted from 1984 through 1989. The mining industry has experienced many changes in the time since NOHSM was performed; consequently, the NOHSM data may no longer be representative of the current potential exposures of the mining industry labor force to hazardous chemicals.

The proposed pilot study will request 10 mining establishments from each of the five major mining commodities (*i.e.*, coal, metal, nonmetal, stone and sand and gravel) selected by probability sampling, to submit a copy of the list of hazardous chemicals maintained pursuant to Mine Safety and Health Administration's (MSHA) Hazard Communication rule (30 CFR 47). For the selected mining establishments in the coal and metal commodities, publicly available U.S. Environmental Protection Agency (EPA) Toxic Release Inventory (TRI) data will also be assembled and examined for value as part of the pilot project.

The objective of the pilot study will be to determine if hazard communication lists of hazardous chemicals, and/or EPA TRI data can be utilized to estimate potential exposure of miners to hazardous chemicals.

The Pilot Study will gather data on recruitment and participation, overall response rates and usefulness of the collected data. Any information linking survey responses to individual mining enterprises will be kept confidential. Only aggregate data will be used for all reports generated from the Pilot Study. There will be no cost to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Coal Mining Commodity	10	1	15/60	2.5
Metal Mining Commodity	10	1	15/60	2.5
Nonmetal Mining Commodity	10	1	15/60	2.5
Stone Mining Commodity	10	1	15/60	2.5
Sand and Gravel Mining Commodity	10	1	15/60	2.5
Total				12.5

Dated: June 23, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–16281 Filed 6–26–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–03–84]

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 Dale Verell, 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: Evaluation of the Process Required to Effectively Expand the National Laboratory System (NLS) to ALL States—New—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC). In October 2000, the Centers for Disease Control and Prevention (CDC) and the Association of Public Health Laboratories (APHL) collaborated to support demonstration projects designed to test the feasibility of strengthening the relationship between private clinical and public health laboratories to more rapidly identify and respond to emerging problems of public health importance. The National Laboratory System (NLS) concept was proposed because of concerns about the potential impact that a lack of integration among clinical and public health laboratories could have on the ability of the public health system to identify and carry out a timely response to foodborne illnesses, bioterrorism incidents or other emerging diseases.

NLS demonstration projects are funded in four states—Washington, Michigan, Minnesota and Nebraska.

The NLS concept would promote communication and collaboration between clinical laboratories and state public health laboratories within their states. CDC is now proposing to collect data from all state public health laboratory directors and from a sample of clinical laboratories in each state to determine the interest within states in implementing the NLS concept. Results of the data collection will be stratified by state and used to assist each state's public health laboratory in improving communication and collaboration with the clinical laboratories in their state. As more states implement the systems, the ability to respond to national emergencies through individual state systems, would be improved.

The goals of the data collection are:

- To determine the barriers that must be overcome to expand the NLS concept in other states
- To determine the readiness of states to develop relationships with clinical laboratories
- To determine the most effective communication links for sharing information among state public health laboratories and clinical laboratories within the state
- To understand what topics of public health significance could be addressed in each state if communication and coordination between the clinical and state public health laboratories were improved.

There are no costs to respondents.

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Survey of State Public Health Directors in States Without NLS	50	1	30/60	25
Survey of Clinical Laboratory Directors in All States	600	1	30/60	300
Total				325

Dated: June 23, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–16282 Filed 6–26–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Study Team for the Los Alamos Historical Document Retrieval and Assessment Project

The Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Public Meeting of the Study Team for the Los Alamos Historical Document Retrieval and Assessment Project.

Time and Date: 5 p.m.–7 p.m. (Mountain Time), July 9, 2003.

Place: Northern New Mexico Community College, Joseph Montoya Building-Lower Level, Room AD–104, Española Campus, 921 Paseo de Oñate, Española, New Mexico 87532, telephone 505–747–2100.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 90 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with the Department of Energy (DOE), and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between the Agency for Toxic Substances and Disease Registry (ATSDR) and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This study group is charged with locating, evaluating, cataloguing, and copying documents that contain information about historical chemical or radionuclide releases from facilities at the Los Alamos National Laboratory since its inception. The purpose of this meeting is to review the goals, methods, and schedule of the project; discuss progress to date; provide a forum for community interaction; and serve as a vehicle for members of the public to express concerns and provide advice to CDC.

Matters to be Discussed: Agenda items include a presentation from the National Center for Environmental Health (NCEH) and its contractor regarding status of the project and the outlook for continued CDC work at Los Alamos. There will be time for public input, questions, and comments. All agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Phillip R. Green, Public Health Advisor, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, NE (MS–E39), Atlanta, Georgia 30333, telephone 404–498–1717, fax 404–498–1811.

The Director, Management Analysis and Services Office, has been delegated the

authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: June 23, 2003.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–16278 Filed 6–26–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Institute for Occupational Safety and Health; Notice of Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting.

Name: Review and Discussion of Draft Document: Criteria for a Recommended Standard—Occupational Exposure to Refractory Ceramic Fibers.

Time and Date: 9 a.m.–4 p.m., August 19, 2003.

Place: Robert A. Taft Laboratories, Taft Auditorium, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Status: Forum will include scientists and representatives from various government agencies, industry, labor, and other stakeholders, and is open to the public, limited only by the space available. The meeting room accommodates 50 people. Due to limited space, notification of intent to attend the meeting must be made with Karen Dragon no later than Tuesday, August 5, 2003. Ms. Dragon can be reached by telephone at 513/533–8303 or by email at *ked2@cdc.gov.* Requests to attend the meeting will be accommodated on a first-come basis.

Purpose: To discuss current research with refractory ceramic fibers (RCFs) and specific issues related to the scientific and technical information presented in the criteria document. Special emphasis will be placed on discussion of the following:

(1) What we can learn from animal studies with RCFs and associated health effects or other biological endpoints;

(2) What we can learn from epidemiological studies with RCFs and associated health effects or other biological endpoints;

(3) Strategies to control occupational exposure to RCFs (*e.g.*, engineering controls, work practices, recommended exposure limit, action limit, personal protective equipment, and specific industries or job functions where controlling exposures is more challenging);

(4) Areas for future collaborative efforts (*e.g.*, research, communication, outreach, and information dissemination, development and dissemination of additional engineering control technologies).

The public is invited to attend and will have the opportunity to provide comments.

Contact Person for General Information: Karen Dragon, Education and Information Division, NIOSH, CDC, 4676 Columbia Parkway, MS C–34, Cincinnati, Ohio 45226, telephone 513/533–8303, fax 513/533–8285, e-mail *ked2@cdc.gov.*

Contact Person for Technical Information: Thomas Lentz, Education and Information Division, NIOSH, CDC, 4676 Columbia Parkway, MS C–32, Cincinnati, Ohio 45226, telephone 513/533–8260, fax 513/533–8230, e-mail *tbl7@cdc.gov.*

Written research, data, or supporting materials to be considered, distributed, or discussed during the meeting should be submitted to the NIOSH Docket Office, ATTN: Diane Miller, Robert A. Taft Laboratories, M/S C–32, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/533–8450, fax 513/533–8230. Comments may also be submitted by e-mail to: *NIOCINDOCKET@CDC.GOV.* E-mail attachments should be formatted as WordPerfect 6/7/8/9, or Microsoft Word. Comments should be submitted to NIOSH no later than August 5, 2003, and should reference docket number NIOSH–009 in the subject heading.

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 23, 2003.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–16284 Filed 6–26–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1257–N]

Medicare Program: Notice of the Practicing Physicians Advisory Council Rechartering

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

ACTION: Notice.

SUMMARY: This notice announces the rechartering of Practicing Physicians Advisory Council (the Council). In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2), this notice announces that as of June 12, 2003 the Practicing Physicians Advisory Council (the Council) has been rechartered for a 2-year period, through June 12, 2005. The charter will terminate on June 12, 2005, unless the Council is rechartered by the Secretary.

FOR FURTHER INFORMATION CONTACT: Diana Motsiopoulos, Administrative Coordinator, Centers for Medicare & Medicaid Services, 7500 Security Blvd., Mail Stop: C4–11–27, Baltimore, MD 21244–1850. Telephone 410–786–3379, fax (410) 786–1710, E-mail: *dmotsiopoulos@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868(a) of the Social Security Act (the Act) to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services. To the extent feasible and consistent with statutory deadlines, the consultation must occur before the publication of the proposed changes. The Council submits its recommendations in an annual report to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services no later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physician services under Medicare in the previous year. At least 11 members of the Council must be physicians as described in Section 1861(r)(1) of the Act; that is, State-licensed doctors of medicine or osteopathy. The other 4 Council members may include dentists, podiatrists, optometrists and chiropractors. The Council includes both participating and nonparticipating physicians, as well as physicians practicing in rural and underserved urban areas. Members serve for overlapping 4-year terms; terms of more than 2 years are contingent upon the renewal of the Council by appropriate action prior to its termination.

Section 1868(a) of the Act provides that nominations to the Secretary for Council membership must be made by medical organizations representing physicians.

I. Provisions of This Notice

This notice announces the signing of the Practicing Physicians Advisory Council (PPAC) charter (recharter) by the Secretary. The charter will terminate on June 12, 2005, unless rechartered before the expiration date.

II. Copies of the Charter

You may obtain a copy of the charter for the PPAC by submitting a request to Diana Motsiopoulos, Administrative Coordinator, Centers for Medicare & Medicaid, 7500 Security Blvd., Mail Stop: C4–11–27, Baltimore, MD 21244–1850, (410) 786–3379 or E-mail the request to *dmotsiopoulos@cms.hhs.gov.* A copy of the charter will also be available on the Internet at *http://www.cms.hhs.gov/faca/ppac/default.asp.*

Authority: Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and (5 U.S.C. App. 2)

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

Dated: June 11, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 03–16055 Filed 6–26–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4062–N]

Medicare and Medicaid Programs; Solicitation for Information on the Hospital CAHPS

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

ACTION: Notice.

SUMMARY: This notice seeks input and recommendations regarding an initiative that the Department of Health and Human Services (DHHS) plans to use to create a standard instrument, sampling, and data collection protocol that hospitals can use to collect comparable data for use in publicly reporting hospital patients' perspectives on the care they received. This survey is being developed and tested by the Agency for Healthcare Research and Quality (AHRQ) in conjunction with the CAHPS ® (formerly known as the Consumer Assessment of Health Plans Survey). The initiative is being called ''Hospital CAHPS'' or ''HCAHPS.'' In this notice, we are soliciting public input on the draft HCAHPS survey instrument and recommendations for the survey administration.

DATES: We will consider comments on the draft HCAPHS survey instrument and recommendations for the survey administration if we receive them at the appropriate address, as provided below, no later than 5 p.m. on July 28, 2003.

ADDRESSES: Comments should be mailed to the following address: Department of Health and Human Services, Centers for Medicare & Medicaid Services, Attention: Elizabeth Goldstein, Director for the Division of Beneficiary Analysis, Mail Stop: S1–13–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. E-mail comments should be sent to the following address: *egoldstein@cms.hhs.gov.*

General Information: Comments may be in the form of a letter or e-mail. Please refer to file code CMS–4062–N when submitting comments and include name, title, organization, mailing address, telephone number, fax number, and e-mail address.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmissions. Comments postmarked after the closing date, or postmarked on or before the closing date but not received in time for the review, will be considered late comments.

FOR FURTHER INFORMATION CONTACT: Elizabeth Goldstein, (410) 786–6665 or by e-mail at *egoldstein@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A key priority for the Secretary of HHS and our Administrator is hospital public reporting. Therefore, we are currently working with the AHRQ to develop the HCAHPS standard instrument and data collection protocol to collect comparable data to support public reporting of hospital patients' perspectives on inpatient hospital care they received.

AHRQ has initiated a rigorous process to develop a draft of the HCAHPS survey instrument. On July 24, 2002, AHRQ published a ''Notice of Request for Measures'' in the **Federal Register** (67 FR 48477) soliciting the submission of existing instruments measuring patients' perspectives on care. In addition, AHRQ conducted an exhaustive review of existing literature, conducted cognitive testing with sample survey respondents, and obtained stakeholder input on the process of developing the draft HCAPHS survey instrument.

On February 5, 2003, we published a collection of information requirement notice in the **Federal Register** (68 FR 5889), soliciting input on a draft HCAHPS survey instrument. In this notice, we are soliciting input on the same draft HCAHPS survey instrument that was published on February 5, 2003, in the **Federal Register** and are providing a 30 day comment period to allow interested parties another opportunity to comment on the draft HCAHPS survey instrument. We will consider both sets of comments when revising the HCAHPS survey instrument.

In addition, we are currently testing the same draft HCAHPS survey instrument as part of CMS's 3–State hospital pilot project in Maryland, New York, and Arizona. (*See* our Web site at *http://www.cms.hhs.gov/quality/hospital* for more information on the 3–State hospital pilot project and the draft HCAHPS survey instrument).

Through the 3–State hospital pilot we will also assess the draft HCAHPS survey instrument. Results will be used to examine the reliability and validity of the draft HCAHPS items, and identify the items that are most useful for public reporting. Based on the results of the 3–State hospital pilot and public input received regarding the draft items, AHRQ will revise the HCAHPS survey instrument. We anticipate that the revised HCAHPS survey instrument would be significantly shorter than the current version.

At the end of the 3–State hospital pilot process and revisions pursuant to public comments, DHHS should have a standard, well-tested instrument for measuring patients' perspectives on hospital care that can be used for comparative public reporting. The 3–State hospital pilot and draft HCAHPS survey instrument is currently designed for all hospital patients 18 years old and over, excluding psychiatric patients. We expect that the final HCAHPS survey instrument would be put in the public domain for use by hospitals or other interested parties.

HCAHPS can be seen as a core set of questions to which individual hospitals can add their own specific questions. HCAHPS is designed to produce data for comparative public reporting to support consumer choice. The HCAHPS survey instrument will complement, not replace data currently collected that support improvement in internal hospital customer services and related activities.

It is our intent to create a process for data collection that can generate data useful for comparative public reporting and that can be used in conjunction with existing survey processes used for quality improvement. We are reviewing options that would allow us to meet our public reporting goals while allowing flexibility in survey administration. As we consider various options, we expect, at a minimum, to be able to

accommodate administration by mail or telephone.

II. Provisions of this Notice

A. Purpose

The purpose of this notice is to solicit comments and recommendations on the draft HCAHPS survey instrument and implementation options.

B. Solicitation Regarding HCAHPS

As previously mentioned, the draft HCAHPS survey instrument was published for public comment on February 5, 2003, in the **Federal Register** and is currently being tested as part of CMS's 3-State hospital pilot project in Maryland, New York, and Arizona. In this notice, we are soliciting input on the same draft HCAHPS survey instrument and are providing a 30 day comment period to allow interested parties another opportunity to submit comments to be used in revising the HCAHPS survey instrument. We are also soliciting input on the number of questions that should be in the revised HCAHPS survey instrument. (*See* addendum).

C. Input on Implementation Options

We are soliciting input and recommendations for the survey administration, including sampling and data collection methods. We request that those providing comments discuss any survey biases that may be present in the approach they suggest (for example, differential mode effects) and how such biases might be addressed to allow fair and meaningful comparisons between hospitals. Some of the specific areas that we are interested in receiving input on are discussed below. In addition to the areas specified below, we are also seeking input on any issues that would affect the implementation of HCAHPS. For example, we are interested in any best practices in case-mix adjustments to control for differences in hospital patient populations.

1. Mode of Administration

Currently, there is wide variation in administration protocols including: (1) Mail, telephone, and other modes (such as interactive voice recognition); (2) number of follow-up surveys sent or telephone calls made; (3) Computer Assisted Telephone Interviewing (CATI) scripts; (4) refusal conversion protocols; (5) pre-notification and cover letter language; and (6) quality control procedures.

We are soliciting input regarding best practices in mail, telephone, or other modes of administration. We would appreciate comments regarding how we can provide flexibility in survey administration, but at the same time ensure objective comparisons between hospitals. We would also appreciate suggestions regarding ways to adjust for any biases that may be present in the approaches suggested.

2. Frequency of Data Collection

There is currently variation in terms of how often hospitals survey their patients. Some hospitals continuously survey their patients, while others do it periodically. As part of our data collection options for hospitals, we would like to ensure that we accurately reflect the mix of patients served by a hospital, capture sufficient samples, and provide the least disruption to current survey operations. Therefore, we are soliciting input on whether data collection should be ongoing or provided at a specific time (for example, at one point of time in a given year) and the pros and cons of the approach suggested.

3. Sampling

Currently, there are differences across hospitals in terms of how the sampling frame is developed and who is included in the sample. Therefore, we are soliciting input regarding what issues need to be considered as a sampling design is developed and the appropriate exclusions from the sample. We are soliciting this input to develop a sampling approach that would allow for a meaningful comparison across hospitals.

4. Time After Discharge

Survey vendors and hospitals currently differ on how quickly patients are surveyed following discharge. We are soliciting input regarding how quickly discharge lists are available; how soon after discharge is it feasible to survey patients; and what is the quality of data contained on the discharge lists.

For the national implementation of HCAHPS, there will be distinct roles for hospitals, survey vendors, and the government. Hospitals and vendors will be responsible for data collection, including: (1) Developing a sampling frame of relevant discharges; (2) drawing the sample of discharges to be surveyed; (3) collecting survey data from sampled discharges; and (4) submitting HCAHPS data to CMS in a standard format. We anticipate that there will be multiple survey vendors, including current survey vendors, who would be able to administer HCAHPS. As will be discussed in a separate document, hospitals will not be required to use a vendor for administration of HCAHPS. However, we anticipate hospitals that choose to administer HCAHPS without the use of a vendor to be able to follow all HCAHPS standards and specifications related to administration of the HCAHPS survey instrument. We will make the HCAHPS survey instrument freely available in the public domain.

The government will be responsible for support of the HCAHPS initiative and public reporting. The government responsibility would include: (1) Providing technical assistance; (2) ensuring the integrity of data collection; (3) accumulating HCAHPS data from individual hospitals; (4) producing risk-adjusted hospital-level estimates; (5) conducting research on the presentation of data for public reporting; and (6) reporting publicly the comparative hospital data.

D. Submission Process

We note, that we will not respond individually to all comments, but will consider all suggestions submitted. To facilitate handling of submissions, the commenter must submit the following information; (1) Name; (2) title; (3) organization; (4) mail address; (5) telephone number; (6) fax number; and (7) e-mail address.

For each of the implementation issues described above or any other issues related to survey implementation, we request that the commenter provide in their response any comments and evidence regarding the effectiveness of the proposed implementation approach.

E. Evaluation Process

Based on the comments and input we receive on the 3–State hospital pilot, the draft HCAHPS survey instrument, and the implementation options, we will develop a draft survey administration strategy. Our intent is that the strategy will support our public reporting goals and allow some level of flexibility in survey administration. All final HCAHPS materials will be put in the public domain for use by hospitals nationally.

Authority: Section 1138 of the Social Security Act (42 U.S.C. 1320b–8).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; Program No. 93.774, Medicare-Supplementary Medical Insurance, and Program No. 93.778, Medical Assistance Program)

Dated: June 17, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

BILLING CODE 4120–01–P

(ADDENDUM)

Hospital CAHPS®
CMS Pilot Test Questionnaire

Draft—Not for Circulation
This questionnaire may not be used without permission

Some items in this questionnaire drew ideas and phrases from items submitted by interested organizations in response to the "Call for Measures" published on July 24, 2002. However, the precise wording of most of the items in this questionnaire is distinct from the wording of submitted items.

We thank the following organizations that generously submitted questionnaire items to assist this endeavor:

Avatar International Inc.
Edge Health Care Research, Inc.
Healthcare Financial Management Association
Jackson Organization
National Research Corporation
Peace Health
Press Ganey Associates
Professional Research Consultants
SSM Health Care

This Hospital CAHPS® CMS Pilot Test Questionnaire is being tested under the direction of the Agency for Healthcare Research and Quality (AHRQ) and the Centers for Medicare and Medicaid Services (CMS) and may not be used by any other individual or organization for any other purposes without the written permission. Upon request, AHRQ will seek requisite permission from authors, as appropriate. Please contact Charles Darby at AHRQ, cdarby@ahrq.gov, or 301 594-2050 with such requests.

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SURVEY INSTRUCTIONS

- Answer all the questions by checking the box to the left of your answer.
- You are sometimes told to skip over some questions in this survey. When this happens you will see an arrow with a note that tells you what question to answer next, like this:

☑ Yes ➔ ***If Yes, Go to Question 1 on Page 1***

☐ No

{This box should be placed on the Cover Page}

All information that would let someone identify you or your family will be kept private. **{SPONSOR NAME}** ***will not share your personal information with anyone without your OK. You may choose to answer this survey or not. If you choose not to, this will not affect the benefits you get.***

You may notice a number on the cover of this survey. This number is ONLY used to let us know if you returned your survey so we don't have to send you reminders.

If you want to know more about this study, please call XXX.

1. Our records show that you were discharged from [FACILITY NAME] on or about [DISCHARGE DATE]. Is that right?

[1]☐ Yes
[2]☐ No ➔ **If No, Stop and return this survey.**

Please answer the questions in this survey about this stay at [FACILITY NAME]. Do not include any other hospital stay in your answers.

2. Which option below best describes the reason for this hospital stay?

[1]☐ Surgery
[2]☐ Childbirth (including caesarian section)
[3]☐ Other medical reason

3. About how many nights was this hospital stay?

Enter number of nights:_____

YOUR CARE FROM NURSES

4. During this hospital stay, how often did nurses treat you with courtesy and respect?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

5. During this hospital stay, how often did nurses listen carefully to you?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

6. During this hospital stay, how often did nurses explain things in a way you could understand?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

7. During this hospital stay, how often did nurses spend enough time with you?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

8. During this hospital stay, did you press the call button?

[1]☐ Yes
[2]☐ No ➔ **If No, Go to Question 10**

9. After you pressed the call button, how often did you get help as soon as you wanted it?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

10. We want to know your rating of the care you received from nurses during this hospital stay

Using any number from 0 to 10 where 0 is the worst possible care and 10 is the best possible care, what number would you give the care you got from all the nurses who treated you?

[0]☐ 0 Worst possible nursing care
[1]☐ 1
[2]☐ 2
[3]☐ 3
[4]☐ 4
[5]☐ 5
[6]☐ 6
[7]☐ 7
[8]☐ 8
[9]☐ 9
[10]☐ 10 Best possible nursing care

YOUR CARE FROM DOCTORS

11. During this hospital stay, how often did doctors treat you with courtesy and respect?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

12. During this hospital stay, how often did doctors listen carefully to you?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

13. During this hospital stay, how often did doctors explain things in a way you could understand?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

14. During this hospital stay, how often did doctors spend enough time with you?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

15. We want to know your rating of the care you received from doctors during this hospital stay.

Using any number from 0 to 10 where 0 is the worst possible care and 10 is the best possible care, what number would you give the care you got from all the doctors who treated you?

[0]☐ 0 Worst possible doctor care
[1]☐ 1
[2]☐ 2
[3]☐ 3
[4]☐ 4
[5]☐ 5
[6]☐ 6
[7]☐ 7
[8]☐ 8
[9]☐ 9
[10]☐ 10 Best possible doctor care

THE HOSPITAL ENVIRONMENT

16. During this hospital stay, how often was the temperature in your room comfortable?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

17. During this hospital stay, how often were your room and bathroom kept clean?

[1]☐ Never
[2]☐ Sometimes
[3]☐ Usually
[4]☐ Always

18. During this hospital stay, how often was the area around your room quiet at night?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

YOUR EXPERIENCES IN THIS HOSPITAL

19. During this hospital stay, did you need help from doctors, nurses or other hospital staff with bathing, washing or keeping clean?

1☐ Yes
2☐ No ➔ **If No, Go to Question 21**

20. How often did you get help with bathing, washing or keeping clean as soon as you wanted?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

21. During this hospital stay, did you need help from doctors, nurses or other hospital staff in getting to the bathroom or in using a bedpan?

1☐ Yes
2☐ No ➔ **If No, Go to Question 23**

22. How often did you get help in getting to the bathroom or in using a bedpan as soon as you wanted?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

23. At any time during this stay, did you share a hospital room with one or more other patients?

1☐ Yes
2☐ No ➔ **If No, Go to Question 25**

24. How often did doctors, nurses, and other hospital staff make sure that you had privacy when they took care of you or talked to you?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

25. During this hospital stay, how often did doctors, nurses or other hospital staff involve you in decisions about your treatment as much as you wanted?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

26. During this hospital stay, did your family or friends call or come to visit you?

1☐ Yes
2☐ No➔ **If No, Go to Question 28**

27. During this hospital stay, how often did your family and friends receive the help they needed when they called or visited the hospital?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

28. During this hospital stay, when doctors, nurses, or other hospital staff first came to care for you, how often did they introduce themselves?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

29. Did you have pain during this hospital stay?

1☐ Yes
2☐ No

30. During this hospital stay, did you have to ask for pain medicine?

1☐ Yes
2☐ No➔ **If No, Go to Question 32**

31. How often did doctors, nurses or other hospital staff respond quickly when you asked for pain medicine?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

32. During this hospital stay, how often was your pain well controlled?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

33. During this hospital stay, how often did the doctors, nurses or other hospital staff do everything they could to help you with your pain?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

34. We want to ask you about medical procedures and tests, for example, drawing blood, taking x-rays, and applying and removing stitches and bandages.

During this hospital stay did you have any medical procedures or tests?

1☐ Yes
2☐ No➔ **If No, Go to Question 36**

35. How often were these tests and procedures done without causing you too much pain?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

36. During this hospital stay, were you given any new medicine that you had not taken before?

1☐ Yes
2☐ No➔ **If No, Go to Question 42**

37. Before giving you any new medicine, how often did doctors, nurses, or other hospital staff tell you the name of the medicine?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

38. Before giving you any new medicine, how often did doctors,

nurses, or other hospital staff tell you what the medicine was for?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

39. Before giving you any new medicine, how often did doctors, nurses, or other hospital staff ask you if you were taking any other medicines or supplements?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

40. Before giving you any new medicine, how often did doctors, nurses, or other hospital staff ask if you were allergic to any medicines?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

41. Before giving you any new medicine, how often did doctors, nurses, or other hospital staff describe possible side effects of the medicine in a way you could understand?

1☐ Never
2☐ Sometimes
3☐ Usually
4☐ Always

ADMISSIONS

42. During this hospital stay, were you admitted to this hospital through the Emergency Room?

1☐ Yes
2☐ No

43. Think about when you were admitted to the hospital for this stay. Were there any unreasonable delays during the admission process?

1☐ Yes
2☐ No

44. A living will is a signed document that gives instructions about the kinds of medical treatment people want, or do not want, if they are not able to speak for themselves.

When you were admitted to the hospital for this stay, were you asked if you had a living will?

1☐ Yes
2☐ No

DISCHARGE

45. After you left the hospital, did you go directly to your own home, to someone else's home, or to another health facility?

1☐ Own Home
2☐ Someone Else's Home
3☐ Another Health Facility ➔ **If Another, Go to Question 52**

46. After you left the hospital, did your health condition limit what you were able to do in <u>any</u> way?

1☐ Yes
2☐ No➔ **If No, Go to Question 49**

47. Before you left the hospital, did you get information in writing about what activities you could and could not do?

1☐ Yes
2☐ No

48. Before you left the hospital, did someone talk with you about whether you would have the help you needed when you were discharged?

1☐ Yes
2☐ No

49. Before you left the hospital, did you get information in writing about what symptoms or health problems to look out for after you were discharged?

1☐ Yes
2☐ No

50. Before you left the hospital, were you told to take any medicine at home that you had not taken before this hospital stay?

1☐ Yes
2☐ No➔ **If No, Go to Question 52**

51. Before you left the hospital, did you get information in writing about how to take this medicine at home?

1☐ Yes
2☐ No

OVERALL RATING OF HOSPITAL

Please answer the following questions about the stay at the hospital _____ shown on the cover. Do not include any other hospital stays in your answer.

52. We want to know your overall rating of this hospital.

Using any number from 0 to 10, where 0 is the worst hospital possible and 10 is the best hospital possible, what number would you use to rate this hospital?

0☐ 0 Worst hospital possible
1☐ 1
2☐ 2
3☐ 3
4☐ 4
5☐ 5
6☐ 6
7☐ 7
8☐ 8
9☐ 9
10☐ 10 Best hospital possible

53. Would you recommend this hospital to your friends and family?

1☐ Definitely no
2☐ Probably no
3☐ Probably yes
4☐ Definitely yes

54. What did you like most about the care you received during this hospital stay?

_____
_____
_____
_____

55. If you could change one thing about the care you received during this hospital stay, what would it be?

_____
_____
_____
_____

ABOUT YOU

56. In general, how would you rate your overall health now?

1☐ Excellent
2☐ Very good
3☐ Good
4☐ Fair
5☐ Poor

57. In general, how would you rate your overall mental or emotional health now?

1☐ Excellent
2☐ Very good
3☐ Good
4☐ Fair
5☐ Poor

58. What is your age now?

1☐ 18 to 24
2☐ 25 to 34
3☐ 35 to 44
4☐ 45 to 54
5☐ 55 to 64
6☐ 65 to 74
7☐ 75 to 79
8☐ 80 or older

59. Are you male or female?

1☐ Male
2☐ Female

60. What is the highest grade or level of school that you have completed?

1☐ 8th grade or less
2☐ Some high school, but did not graduate
3☐ High school graduate or GED
4☐ Some college or 2-year degree
5☐ 4-year college graduate
6☐ More than 4-year college degree

61. Are you of Hispanic or Latino origin or descent?

1☐ Yes, Hispanic or Latino
2☐ No, not Hispanic or Latino

62. What is your race? Please choose one or more.

1☐ White
2☐ Black or African-American
3☐ Asian
4☐ Native Hawaiian or other Pacific Islander
5☐ American Indian or Alaskan Indian or Alaskan Native
8☐ Other (please print):

_____

63. What language do you mainly speak at home?

1☐ English
2☐ Spanish
8☐ Some other language (please print):

_____

64. Including this hospital stay, how many hospital stays did you have in the last 12 months?

1☐ One
2☐ Two
3☐ Three
4☐ Four or more stays

65. Did someone help you complete this survey?

1☐ Yes ➔ **Go to Question 66**
2☐ No ➔ **Please return the survey in the postage-paid envelope.**

66. How did that person help you? Check all that apply.

1☐ Read the questions to me
2☐ Wrote down the answers I gave
3☐ Answered the questions for me
4☐ Translated the questions into my language
5☐ Helped in some other way ***(Please print)***

_____

_____

THANK YOU

Please return the completed survey in the postage-paid envelope.

[FR Doc. 03–16057 Filed 6–26–03; 8:45 am]
BILLING CODE 4120–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9017–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January 2003 Through March 2003

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

ACTION: Notice.

SUMMARY: This notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from January 2003 through March 2003, relating to the Medicare and Medicaid programs. This notice provides information on national coverage determinations affecting specific medical and health care services under Medicare. Additionally, this notice identifies certain devices with investigational device exemption numbers approved by the Food and Drug Administration that potentially may be covered under Medicare. Finally, this notice also includes listings of all approval numbers from the Office of Management and Budget for collections of information in CMS regulations.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. (See Section III of this notice for how to obtain listed material.)

Questions concerning items in Addendum III may be addressed to Karen Bowman, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–5252.

Questions concerning national coverage determinations in Addendum V should be directed to Patricia Brocato-Simons, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0261.

Questions concerning Investigational Device Exemptions items in Addendum VI may be addressed to Sharon Hippler, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C5–13–27, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–4633.

Questions concerning approval numbers for collections of information in Addendum VII may be addressed to Dawn Willingham, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6141.

Questions concerning all other information may be addressed to Margie Teeters, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–13–18, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–4678.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of these programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) maintaining effective communications with regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, fiscal intermediaries and carriers that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of manual issuances, memoranda, substantive and interpretive regulations, national coverage determinations, and Food and Drug Administration-approved investigational device exemptions published during the timeframe to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare Coverage Issues Manual (CIM) may wish to review the August 21, 1989 publication (54 FR 34555). Those interested in the procedures used in making national coverage determinations under the Medicare program may review the April 27, 1999 publication (64 FR 22619).

To aid the reader, we have organized and divided this current listing into six addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published CMS Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique CMS transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single instruction or many. Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

• Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarters covered by this notice. For each item we list the—

• Date published;

• **Federal Register** citation;

• Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);

• Agency file code number; and

• Title of the regulation.

• Addendum V includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the CIM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision.

• Addendum VI includes listings of the Food and Drug Administration-approved investigational device exemption categorizations, using the investigational device exemption numbers the Food and Drug Administration assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B), and identified by the investigational device exemption number.

• Addendum VII includes listings of all approval numbers from the Office of Management and Budget (OMB) for collections of information in CMS regulations in title 42 of the Code of Federal Regulations (CFR) and in title 45 CFR, subchapter C. These collections of information, which OMB has approved, are being included for the first time in this quarterly listing of program issuances.

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, most manuals are available at the following Internet address: *http://cms.hhs.gov/manuals/default.asp.*

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through *GPO Access.* The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents Home page address is *http://www.access.gpo.gov/nara/index.html,* by using local WAIS client software, or by telnet to *swais.access.gpo.gov,* then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. Interested individuals can obtain copies from the nearest CMS Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the CMS Home Page. The Internet address is *http://cms.hhs.gov/rulings.*

D. CMS's Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

• Titles XI, XVIII, and XIX of the Act.

• CMS-related regulations.

• CMS manuals and monthly revisions.

• CMS program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1999. (Updated titles of the Social Security Laws are available on the Internet at *http://www.ssa.gov/OP_Home/ssact/comp-toc.htm.*) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal Government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each CMS publication are shown in Addendum III, along with the CMS publication and transmittal numbers. To help FDLs locate the materials, use the Superintendent of Documents number, plus the transmittal number. For example, to find the Part 3—Claims Process, (CMS Pub. 13–3) transmittal entitled ''Ambulance Services,'' use the Superintendent of Documents No. HE 22.8/6 and the transmittal number 1877.

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

and Program No. 93.714, Medical Assistance Program)

Dated: June 19, 2003.

Jacquelyn Y. White,

Director, Office of Strategic Operations and Regulatory Affairs.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

August 11, 1998 (63 FR 42857)
September 16, 1998 (63 FR 49598)
December 9, 1998 (63 FR 67899)
May 11, 1999 (64 FR 25351)
November 2, 1999 (64 FR 59185)
December 7, 1999 (64 FR 68357)
January 10, 2000 (65 FR 1400)
May 30, 2000 (65 FR 34481)
June 28, 2002 (67 FR 43762)
September 27, 2002 (67 FR 61130)
December 27, 2002 (67 FR 79109)
March 28, 2003 (68 FR 15196)

Addendum II—Description of Manuals, Memoranda, and CMS Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual (CIM) was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992 (57 FR 47468).

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS

[January 2003 through March 2003]

Transmittal No.		Manual/subject/publication No.
		Intermediary Manual Part 2—Audits, Reimbursement, Program Administration (CMS–Pub. 13–2) (Superintendent of Documents No. HE 22.8/6–3)
421	•	Provider Communications—Provider Education and Training
422	•	Beneficiary Services
423	•	Provider Services, Inquiries
		Intermediary Manual Part 3—Claims Process (CMS–Pub. 13–3) (Superintendent of Documents No. HE 22.8/6)
1872	•	Prospective Payment for Outpatient Rehabilitation Services and the Financial Limitation
1873	•	Pneumococcal Pneumonia, Influenza Virus and Hepatitis B Vaccines
1874	•	Pneumococcal Pneumonia, Influenza Virus and Hepatitis B Vaccines
1875	•	Review of Form HCFA–1450 for Inpatient and Outpatient Bills
1876	•	Bill Review for Partial Hospitalization Services Provided in Community Mental Health Centers Hospital Outpatient Partial Hospitalization Services
1877	•	Ambulance Services
1878	•	Intestinal and Multi-Visceral Transplants Provider Education
		Carriers Manual Part 2—Program Administration (Superintendent of Documents No. HE 22.8/7–3) (CMS–Pub. 14–2)
146	•	Provider/Supplier Communications—Provider/Supplier Education and Training
147	•	Beneficiary Services
148	•	Provider Services, Inquiries
		Carriers Manual Part 3—Claims Process (CMS–Pub. 14–3) (Superintendent of Documents No. HE 22.8/7)
1785	•	Coding for Non-Covered Services and Services Not Reasonable and Necessary
1786	•	Carrier Use of Undeliverable Notices for Utilization, Fraud, and Quality Control
1787	•	Ordering Diagnostic Tests Payment Conditions for Radiology Services
1788	•	HCPCS Coding
1789	•	Railroad Retirement Beneficiary Carrier United Mine Workers of America Title XIX Beneficiaries Residing in California Disposition of Misdirected Claims
1790	•	Zip Code File on the Direct Connect
1791	•	Disposition of Misdirected Claims Parenteral and Enteral Nutrition (PEN) Claims Jurisdiction
1792	•	Claims Processing Procedures for Physician/Supplier Services to HMO Members

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January 2003 through March 2003]

Transmittal No.	Manual/subject/publication No.
	Program Memorandum Intermediaries (CMS–Pub. 60A) (Superintendent of Documents No. HE 22.8/6–5)
A–02–128	• Revision to 42 CFR 405.371 Suspension, Offset and Recoupment of Medicare Payments to Providers and Suppliers of Services
A–02–129	• 2003 Update of the Hospital Outpatient Prospective Payment System
A–03–001	• January Medicare Outpatient Code Editor Specifications Version 18.1 For Bills From Hospitals That Are Not Paid Under the Outpatient Prospective Payment System
A–03–002	• Installation of Version 28.0 Add-On of the Provider Statistical and Reimbursement Report
A–03–003	• January Outpatient Code Editor Specifications Version (V4.0)
A–03–004	• Calculating Provider-Specific Medicare Outpatient Cost-to-Charge Ratios and Instructions on Cost Report Treatment of Hospital Outpatient Services Paid on a Reasonable Cost Basis
A–03–005	• Health Insurance Portability and Accountability Act Transaction 835v4010 Companion Document Update for Intermediaries
A–03–006	• Update the Medicare Secondary Payment Module to Apportion Prospective Payment System (PPS) Outlier Amounts to all Service Lines With Medicare Reimbursement That Are PRICER Related and Potential Outlier Service Lines
A–03–007	• Payment to Hospitals and Units Excluded from the Acute Inpatient Prospective Payment System for Direct Graduate Medical Education and Nursing and Allied Health Education for Medicare+Choice Enrollees
A–03–008	• Clarification of 3-Day Payment Window vs. 1-Day Payment Window for Hospitals Excluded from Inpatient Prospective Payment System
A–03–009	• Medical Nutrition Therapy Services for Beneficiaries with Diabetes or Renal Disease
A–03–010	• Manual Medical Review Indicator for the Comprehensive Error Rate Testing Program
A–03–011	• Changes in Payment for Certain Services Provided by Outpatient Physical Therapy Providers Under the Medicare Physician Fee Schedule
A–03–012	• The Report of Benefit Savings
A–03–013	• 3-Day Payment Window Refinements Under the Short-Term Hospital Inpatient Prospective Payment System
A–03–014	• Further Guidance Regarding Billing Under the Outpatient Prospective Payment System
A–03–015	• Electromagnetic Stimulation
A–03–016	• Continuous Home Care Under Medicare Hospice
A–03–017	• Payment for Services To Be Paid on a Fee Schedule But for Which There Is No Price
A–03–018	• Installation of Version 28.0 Second Add-On of the Provider Statistical and Reimbursement Report
A–03–019	• Reactivation of Outpatient Prospective Payment System Outpatient Code Editor Edit 15, ''Service Unit Out Of Range'' and Guidance on Editing for Low Osmolar Contrast Media Procedures
A–03–020	• April 2003 Update of the Hospital Outpatient Prospective Payment System
A–03–021	• Announcement of Medicare Rural Health Clinics and Federally Qualified Health Centers Payment Rate Increases, Clarification on Coverage and Payment of Diabetes Self-Management Training Services and Medical Nutrition Therapy Services
A–03–022	• Installation of Version 29.0 of the Provider Statistical and Reimbursement Reporting System—Modification
A–03–023	• Implementation of the Temporary Equalization of Urban and Rural Standardized Payment Amounts Under the Medicare Inpatient Hospital Prospective Payment System as Required by Section 402(b) of Public Law 108–7
	Program Memorandum Carriers (CMS–Pub. 60B) (Superintendent of Documents No. HE 22.8/6–5)
B–03–001	• Emergency Update to the 2003 Medicare Physician Fee Schedule Database
B–03–002	• DMERCs-VIPS Medicare System Implementation To Process ICD–9 CM Codes Using Date of Service and Not Date of Receipt
B–03–003	• Processing Initial Denials, of the DMEPOS Refund Requirements Implementation of Limits on Beneficiary Liability for Medical Equipment and Supplies—Change
B–03–004	• CWF Change for Billing for Glucose Test Strips and Supplies—Follow-up to Change Request 2156
B–03–005	• Reporting of Accident Date and Ambulance Certification Information on the X12N 837 (version 4010) Coordination of Benefits Transaction
B–03–006	• Program Integrity Management Reporting System for Part B—Correction of Multiple Reports of Savings by VIPS Standard Systems (*i.e.*, VIPS Medicare System and Durable Medical Equipment Regional Contractor System)
B–03–007	• Minimum Number of Pricing Files That Must Be Maintained Online for Medicare Physician Fee Schedule Services
B–03–008	• Medical Review Progressive Corrective Action Continuation of Work Begun in Compliance with Change Request 2433
B–03–009	• Durable Medical Equipment Regional Carriers—New Modifier Needed To Invoke Advanced Beneficiary Notice Logic for Hard Copy and Electronic Claims
B–03–010	• Program Integrity Management Reporting System for Part B—Implementation of an Automated Edit Description Module
B–03–011	• Correct Payment of January and February 2003 Physician Services
B–03–012	• Use of the National Drug Code for Drug Claims at the Durable Medical Equipment Regional Carriers
B–03–013	• Continuation of April 2003 Change Request 2424: Create Import/Export Functionality Between the Unique Provider Identification Number System and the Provider Enrollment Chain Ownership System
B–03–014	• Continuation of April 2003 Change Request 2425: Create Import/Export Functionality Between the Medicare Claims System (MCS) and the Provider Enrollment Chain Ownership System
B–03–015	• Continuation of April 2003 Change Request 2426: Process all Medicare Part B Provider Enrollments in the Provider Enrollment Chain Ownership System; Modify the Medicare Claims System To Incorporate All Claim Payment and Provider Correspondence Functionality That Is Included in the Provider Enrollment System But Will Not Be a Part of Provider Enrollment Chain Ownership System

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January 2003 through March 2003]

Transmittal No.		Manual/subject/publication No.
B–03–016	•	Continuation of April 2003 Change Request 2427: Process all Medicare Part B Provider Enrollments in the Provider Enrollment Chain Ownership System; Create Import/Export Functionality Between the Viable Medicare System and the Provider Enrollment Chain Ownership System
B–03–017	•	Add-On-Codes for Anesthesia
B–03–018	•	Changes to Correct Coding Edits, Version 9.2, Effective July 1, 2003
B–03–019	•	Durable Medical Equipment Regional Carriers and Part B Carriers on the VMS Standard System—Short Descriptions of National Modifiers on the Healthcare Common Procedure Coding System Tape
B–03–020	•	2003 DMEPOS Jurisdiction List
B–03–021	•	Provider Education Regarding Home Health Consolidated Billing and Provider Liability
B–03–022	•	Use of Statistical Sampling for Overpayment Estimation When Performing Administrative Reviews of Part B Claims
		Program Memorandum Intermediaries/Carriers (CMS–Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6–5)
AB–03–001	•	Medicare Coverage of Non-Invasive Vascular Studies for End-Stage Renal Disease Patients
AB–03–002	•	Quarterly Update of HCPCS Codes Used for Home Health Consolidated Billing Enforcement
B–03–003	•	Noncoverage of Multiple Electroconvulsive Therapy
B–03–004	•	Installation of a Security Firewall for Deceased Beneficiary Files (Options B & C)
AB–03–005	•	FY 2003 Systems Security Activities and Due Dates
AB–03–006	•	April Quarterly Update for 2003 Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Fee Schedule
AB–03–007	•	Second Clarification of Medicare Policy Regarding the Implementation of the Ambulance Fee Schedule
AB–03–008	•	Clarification of Physician Certification Requirements for Medicare Hospice
AB–03–009	•	The Medicare Exclusion Database Replaces Publication 69
AB–03–010	•	Shared System Maintainer Hours for Resolution of Problems Detected During Health Insurance Portability and Accountability Act Transaction Release Testing
AB–03–011	•	Identifying the Primary Payer Amounts To Send to the Medicare Secondary Payer Pay Module and the Shared Systems When There Are Multiple Primary Payers on Electronic and Hardcopy Claims
AB–03–012	•	Remittance Advice Remark and Reason Code Update
AB–03–013	•	New Waived Tests—December 17, 2002
AB–03–014	÷	Single Drug Pricer
AB–03–015	•	Shared Systems Changes for Name Change from HCFA to CMS (MCS and CWF External Changes Only)
AB–03–016	•	CR 2240 Question and Answer Document
AB–03–017	•	Scheduled Release for April Updates to Software Programs and Pricing/Coding Files
AB–03–018	•	Implementation of the Financial Limitation for Outpatient Rehabilitation Services
AB–03–019	•	Notice of Interest Rate for Medicare Overpayments and Underpayments
AB–03–020	•	Clarification of Transmittal AB–00–107, Change Request 1163, and Transmittal AB–00–129, Change Request 1460, Regarding the Coordination of Benefits
		Contractor and MSP Prepay Work Activities for Customer Service, MSP and Standard Systems Contractor Staff
AB–03–021	•	Additional Documentation Requests Requirements for Ordering Providers of Laboratory Services
AB–03–022	•	Use of the American Medical Association's *Physicians' Current Procedural Terminology, Fourth Edition* Codes on Contractors' Web Sites
AB–03–023	•	Deep Brain Stimulation for Essential Tremor and Parkinson's Disease
AB–03–024	•	Clarification of the Allocation of Initial Claim Entry Activities Where the Claim Is Paid Secondary by Medicare
AB–03–025	•	System Networking Electronic Correspondence Referral System 1.3 User and Installation Guides for Testing and Production
AB–03–026	•	Implementation of the Modifications (4010A1) to Transactions and Code Set Standards for Electronic Transactions Adopted Under the Health Insurance Portability and Accountability Act
AB–03–027	•	Payment Change for the 2003 Medicare Physician Fee Schedule and Further Extension of the 2003 Participation Enrollment Process
AB–03–028	•	Coverage and Billing of Sacral Nerve Stimulation
AB–03–029	•	Health Care Claims Status Category Codes and Health Care Claim Status Codes for Use With the Health Care Claim Status Request and Response ASC X12N 276/277
AB–03–030	•	Changes to the Laboratory National Coverage Determination Edit Software for April 1, 2003
AB–03–031	•	Addition or Modification of Temporary ''K'' Codes and Change in Status for Code A4232
AB–03–032	•	File Names, Descriptions and Instructions for Retrieving the 2003 Ambulatory Surgical Center HCPCS Additions, Deletions, and Master Listing
AB–03–033	•	Promoting Colorectal Cancer Screening As a Part of National Colorectal Cancer Awareness Month
AB–03–034	•	Medicare Fee for Service Contractor Guidance on the HIPAA Privacy Rule
AB–03–035	•	Emergency Changes to the 2003 Medicare Physician Fee Schedule Database
AB–03–036	•	270/271 Implementation and Direct Date Entry Eligibility
AB–03–037	•	Provider Education Article: Medicare Payments for Part B Mental Health Services
AB–03–038	•	Reporting Benefit Integrity Workload in CROWD
AB–03–039	•	Procedure for Granting Extension to File Requests for Appeal Under the New 120-day Timeframe Created by section 521 of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000
AB–03–040	•	Provider Education Article: ''Hospice Care Enhances Dignity and Peace As Life Nears Its End''

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January 2003 through March 2003]

Transmittal No.		Manual/subject/publication No.
		Hospital Manual (CMS–Pub. 10) (Superintendent of Documents No. HE 22.8/2)
796	•	Pneumococcal Pneumonia, Influenza Virus, and Hepatitis B Vaccines
797	•	Pneumococcal Pneumonia, Influenza Virus, and Hepatitis B Vaccines
798	•	Billing for Hospital Outpatient Partial Hospitalization Services
799	•	Identifying Other Primary Players During the Admission Process
		Hospice Manual (CMS–Pub. 21) (Superintendent of Documents No.)
66	•	Special Coverage Requirements
		Coverage Issues Manual (CMS–Pub. 6) (Superintendent of Documents No. HE 22.8/14)
166	•	Multiple-Seizure Electroconvulsive Therapy
167	•	Treatment of Motor Function Disorders with Electric Nerve Stimulation—Not Covered
167	•	Deep Brain Stimulation for Essential Tremor and Parkinson's Disease
168	•	Ambulatory Blood Pressure Monitoring
		Outpatient Physical Therapy (CMS Pub. 9) (Superintendent of Documents No. HE 2.8/9)
17	•	Billing Instructions for Partial Hospitalization Services Provided in Community Mental Health Centers
		Provider Reimbursement Manual—Part 2 Provider Cost Reporting Forms and Instructions Chapter 35/Form CMS–2540–96 (CMS–Pub. 15–2–35)
12	•	Skilled Nursing Facility Cost Report Form CMS–2540–96, and Is Effective for Cost Reporting Periods Ending on and After December 31, 2002
		Financial Management (CMS–Pub. 100–06)
13	•	Intermediary Claims Accounts Receivable
		Physician/Supplier Overpayment Reporting System Summary Entry Debts Financial Reporting for Intermediary Claims Accounts Receivable
14	•	General
15	•	FMFIA and the CMS Medicare Contractor
		Risk Assessment
		Fiscal Year 2003 Medicare Control Objectives
		Documentation and Work Papers
		Requirements
		Certification Statement
		Executive Summary
		CPIC—Report of Material Weaknesses
		CPIC—Report of Reportable
		Conditions
		Definitions and Examples of Reportable Conditions and Material Weaknesses
		Corrective Action Plans
		Submission, Review, and Approval of Corrective Action Plans
		Universal Corrective Action Plan Report
		CMS Finding Numbers
		Program Integrity Manual (CMS–Pub. 100–08)
37	•	Written Orders
		Written Orders Prior to Delivery
38	•	Articles
39	•	Overview of Prepayment and Postpayment Review for MR Purposes
		Determinations Made During Prepayment and Postpayment MR
		Documentation Specifications for Areas Selected for Prepayment or Postpayment MR
		Additional Documentation Requests During Prepayment of Postpayment MR

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January 2003 through March 2003]

Transmittal No.	Manual/subject/publication No.
	Handling Late Documentation Denials Documenting That a Claim Should Be Denied Spreading Workload Evenly Review That Involves Utilization Parameters Prepayment Review of Claims for MR Purposes Documentation Specifications for Areas Selected for MR Laboratory Claims Documentation for Non-Physician Claims Development of Claims for Additional Documentation Postpayment Review Case Selection Location of Postpayment Reviews Re-adjudication of Claims Calculation of the Correct Payment Amount and Subsequent Over/Underpayment Provider(s) Rebuttal(s) of Findings

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

[January 2003 through March 2003]

Publication date	FR Vol. 68 page	CFR Part(s)	File code*	Regulation title
01/10/2003	1374	42 CFR 403, 416, 418, 460, 482, 483, 485.	CMS–3047–F	Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities.
01/24/2003	3586	42 CFR 433 and 438	CMS–2015–F	Medicaid Program; External Quality Review of Medicaid Managed Care Organizations.
01/24/2003	3534		CMS–3113–N	Medicare Program; Meeting of the Medicare Coverage Advisory Committee—March 12, 2003.
01/24/2003	3532		CMS–2177–PN	Medicare and Medicaid Programs; Application by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for Hospices.
01/24/2003	3482	42 CFR Chapter IV	CMS–6012–N4	Medicare Program; Negotiated Rulemaking Committee on Special Payment Provisions and Requirements for Prosthetics and Certain Custom-Fabricated Orthotics.
01/24/2003	3435	42 CFR 482	CMS–3050–F	Medicare and Medicaid Programs; Hospital Conditions of Participation: Quality Assessment and Performance Improvement.
02/10/2003	6750		CMS–4051–N	Medicare Program; Renewal of the Advisory Panel on Medicare Education (APME) and Notice of Meeting of the Advisory Panel—February 27, 2003.
02/10/2003	6682	42 CFR 413	CMS–1126–P	Medicare Program; Provider Bad Debt Payment.
02/10/2003	6636	42 CFR 405 and 419	CMS–1206–CN2	Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2003 Payment Rates; and Changes to Payment Suspension for Unfiled Cost Reports; Correction.
02/20/2003	8334	45 DCFR 160, 162, 164	CMS–0049–F	Health Insurance Reform: Security Standards.
02/28/2003	9681		CMS–1225–GNC	Medicare Program; Criteria and Standards for Evaluating Intermediary, Carrier, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Regional Carrier Performance During Fiscal Year 2003.
02/28/2003	9680		CMS–3099–N	Medicaid Program; Annual Review of the Appropriateness of Payment Amounts for New Technology Intraocular Lenses (NTIOLs) Furnished by Ambulatory Surgical Centers (ASCs).

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

[January 2003 through March 2003]

Publication date	FR Vol. 68 page	CFR Part(s)	File code*	Regulation title
02/28/2003	9673		CMS–5002–N	Medicare Program; Demonstration: Capitated Disease Management for Beneficiaries With Chronic Illnesses.
02/28/2003	9672		CMS–2165–N	Medicaid Program; Infrastructure Grant Program To Support the Competitive Employment of People With Disabilities.
02/28/2003	9671		CMS–1245–N	Medicare Program; Request for Nominations To the Advisory Panel on Ambulatory Payment Classifications Groups.
02/28/2003	9567	42 CFR 410, 414, 485	CMS–1204–F2	Medicare Program; Physician Fee Schedule Update for Calendar Year 2003.
03/05/2003	10420	42 CFR 412	CMS–1243–P	Medicare Program; Proposed Change in Methodology for Determining Payment for Extraordinarily High-Cost Cases (Cost Outliers) Under the Acute Care Hospital Inpatient Prospective Payment System.
03/07/2003	11234	42 CFR 412	CMS–1472–P	Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Proposed Annual Payment Rate Updates and Policy Changes.
03/07/2003	10987	42 CFR 412	CMS–1177–F2	Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Implementation and FY 2003 Rates; Correcting Amendment.
03/28/2003	15268	42 CFR 416	CMS–1885–FC	Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures Effective July 1, 2003.
03/28/2003	15207		CMS–1230—N	Medicare Program; Public Meetings in Calendar Year 2003 for New Durable Medical Equipment Coding and Payment Determinations.
03/28/2003	15206		CMS–1474–N	Medicare Program; Town Hall Meeting on the Inpatient Rehabilitation Facility Prospective Payment System.
03/28/2003	15196		CMS–9016–N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October 2002 Through December 2002.
03/28/2003	15139	42 CFR Chapter IV	CMS–6012–N5	Medicare Program; Negotiated Rulemaking Committee on Special Payment Provisions and Requirements for Prosthetics and Certain Custom-Fabricated Orthotics; Meeting Announcement

Addendum V—National Coverage Determinations [January 2003 Through March 2003]

A national coverage determination (NCD) is a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under Title XVIII of the Social Security Act, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title, determination with respect to the amount of payment made for a particular item or service so covered. We include below all of the NCDs that became effective during the quarter covered by this notice. The entries below include information concerning completed decisions as well as sections on program and decision memoranda, which also announce impending decisions or, in some cases, explain why it was not appropriate to issue an NCD. We identify completed decisions by section of the CIM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. Information on completed decisions as well as pending decisions has also been posted on the CMS website at *http://cms.hhs.gov/coverage.*

National Coverage Decisions for Quarterly Notices

COVERAGE ISSUES MANUAL (CIM) HCFA PUB. 06

CIM section	Title	Issue date	Effective date
50–42	Ambulatory Blood Pressure Monitoring	03/28/03	07/01/03
35–103	Multiple Monitored Electroconvulsive Therapy	01/10/03	04/01/03
65–19	Deep Brain Stimulation for Parkinson's	02/14/03	04/01/03
35–102	Electrical Stimulation for Wounds	01/15/03	04/01/03+

PROGRAM MEMORANDUM (PM)

PM No.	Title	Issue date	Effective date
AB–03–030	Clinical Laboratory Edit Update	02/28/03	04/01/03

Addendum VI—Categorization of Food and Drug Administration-AllowedInvestigational Device Exemptions

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c), devices fall into one of three classes. Also, under the new categorization process to assist CMS, the Food and Drug Administration assigns each device with a Food and Drug Administration-approved investigational device exemption to one of two categories.) Category A refers to experimental/investigational device exemptions, and Category B refers to nonexperimental/investigational device exemptions. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following information presents the device number and category (A or B) for the first quarter, January through March 2003.

Investigational Device Exemption Numbers, 1st Quarter 2003

IDE/Category

G000247 B
G003004 B
G010216 B
G020225 B
G020231 B
G020240 A
G020244 B
G020247 B
G020248 B
G020262 B
G020279 B
G020299 B
G020301 B
G020308 B
G020310 B
G020311 B
G020314 B
G020315 B
G020317 B
G020318 B
G020319 B
G020320 B
G020324 B
G030003 A
G030004 B
G030006 B
G030012 B
G030013 B
G030014 B
G030016 B
G030018 B
G030019 B
G030020 B
G030021 B
G030023 B
G030024 B
G030025 B
G030028 B
G030030 B
G030033 B
G030035 B
G030036 B
G030037 B
G030041 B
G030043 A
G030048 B
G030049 B
G030052 B
G030053 B

Addendum VII—Approval Numbers for Collections of Information

Below we list all approval numbers for collections of information in the referenced sections of CMS regulations in title 42 and title 45, subchapter C, of the Code of Federal Regulations, which have been approved by the Office of Management and Budget:

OMB control nos.	Approved CFR sections in title 42 and title 45
0938–0008	414.40, 424.32, 424.44
0938–0022	413.20, 413.24, 413.106
0938–0023	424.103
0938–0025	406.28, 407.27
0938–0027	486.100–486.110
0938–0034	405.821
0938–0035	407.40
0938–0037	413.20, 413.24
0938–0041	408.6
0938–0042	410.40, 424.124
0938–0045	405.711
0938–0046	405.2133
0938–0050	413.20, 413.24
0938–0062	431.151, 435.1009, 440.250, 440.220, 442.1, 442.10–442.16, 442.30, 442.40, 442.42, 442.100–442.119, 483.400 –483.480, 488.332, 488.400, 498.3–498.5
0938–0065	485.701–485.729
0938–0074	491.1—491.11
0938–0080	406.13
0938–0086	420.200–420.206, 455.100–455.106
0938–0101	430.30
0938–0102	413.20, 413.24
0938–0107	413.20, 413.24
0938–0146	431.800–431.865
0938–0147	431.800–431.865
0938–0151	493.1–493.2001
0938–0155	405.2470
0938–0170	493.1269–493.1285
0938–0193	430.10–430.20, 440.167
0938–0202	413.17, 413.20
0938–0214	411.25, 489.2, 489.20
0938–0236	413.20, 413.24
0938–0242	416.44, 418.100, 482.41, 483.270, 483.470
0938–0245	407.10, 407.11

OMB control nos.	Approved CFR sections in title 42 and title 45
0938–0251	406.7
0938–0266	416.41, 416.83, 416.47, 416.48
0938–0267	485.56, 485.58, 485.60, 485.64, 485.66, 410.65
0938–0269	412.116, 412.632, 413.64, 413.350, 484.245
0938–0270	405.376
0938–0272	440.180, 441.300–441.305
0938–0273	485.701—85.729
0938–0279	424.5
0938–0287	447.31
0938–0296	413.170
0938–0300	431.800
0938–0301	413.20, 413.24
0938–0302	418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96, 418.100
0938–0313	418.1—418.405
0938–0328	482.12, 482.22, 482.27, 482.30, 482.41, 482.43, 482.53, 482.56, 482.57, 482.60, 482.61, 482.62, 482.66
0938–0334	491.9
0938–0338	486.104, 486.106, 486.110
0938–0354	441.60
0938–0355	484.10–484.52
0938–0357	409.40–409.50, 410.36, 410.170, 411.4–411.15, 421.100, 424.22, 484.18, 489.21
0938–0358	412.20–412.30
0938–0359	412.40–412.52
0938–0360	405.2100–405.2184
0938–0365	484.10, 484.11, 484.12, 484.14, 484.16, 484.18, 484.20, 484.36, 484.48, 484.52
0938–0372	414.330
0938–0378	482.60–482.62
0938–0379	418.1–418.405
0938–0380	482.1–482.66
0938–0386	405.2100–405.2171
0938–0391	488.18, 488.26, 488.28
0938–0426	476.104, 476.105, 476.116, 476.134
0938–0429	447.53
0938–0443	473.18, 473.34, 473.36, 473.42
0938–0444	1004.40, 1004.50, 1004.60, 1004.70
0938–0445	412.44, 412.46, 431.630, 456.654, 466.71, 466.73, 466.74, 466.78
0938–0447	405.2133
0938–0449	440.180, 441.300–441.310
0938–0454	424.20
0938–0456	412.105
0938–0463	413.20, 413.24
0938–0465	411.404, 411.406, 411.408
0938–0467	431.17, 431.306, 435.910, 435.920, 435.940–435.960
0938–0469	417.107, 417.478
0938–0470	417.143, 417.408
0938–0477	412.92
0938–0484	424.123
0938–0486	498.40–498.95
0938–0501	406.15
0938–0502	433.138
0938–0512	486.301–486.325
0938–0526	475.100 Subpart C, 475.106, 475.107, 462.102, 462.103
0938–0534	410.38, 424.5
0938–0544	493.1–493.2001
0938–0565	411.20–411.206
0938–0566	411.404, 411.406, 411.408
0938–0567	498 Subpart D, E, and H and 20 CFR 404.933
0938–0573	412.256, 412.230
0938–0581	493.1–493.2001
0938–0599	493.1–493.2001
0938–0600	405.371, 405.378, 413.20
0938–0610	417.436, 417.801, 417.436, 422.128, 430.12, 431.20, 431.107, 434.28, 483.10, 484.10, 489.102
0938–0612	493.1–493.2001
0938–0618	433.68, 433.74, 447.272
0938–0653	493
0938–0655	493.180
0938–0657	405.2110, 405.2112
0938–0658	405.2110, 405.2112
0938–0667	482.12, 488.18, 489.20, 489.24
0938–0673	430.10
0938–0679	410.38
0938–0685	410.32, 410.71, 413.17, 424.57, 424.73, 424.80, 440.30, 484.12
0938–0686	493.551–93.557

OMB control nos.	Approved CFR sections in title 42 and title 45
0938–0688	486.301–486.325
0938–0690	488.4–488.9, 488.201
0938–0691	412.106
0938–0692	466.78, 489.20, 489.27
0938–0700	417.479, 417.500; 422.208, 422.210; 434.44, 434.67, 434.70; 1003.100, 1003.101, 1003.103 & 1003.106
0938–0701	422.152
0938–0702	*45 CFR* 146
0938–0703	*45 CFR* 148
0938–0714	411.370–411.389
0938–0717	424.57
0938–0721	410.33
0938–0722	422.370–422.378
0938–0723	421.300–421.318
0938–0730	405.410, 405.430, 405.435, 405.440, 405.445, 405.455, 410.61, 415.110, 424.24
0938–0732	417.126, 417.470
0938–0734	45 CFR 5b
0938–0739	413.337, 413.343, 424.32, 483.20
0938–0742	422.300–422.312
0938–0749	424.57
0938–0753	422.000–422.700
0938–0754	441.152
0938–0758	413.20, 413.24
0938–0760	484 Subpart E, 484.55
0938–0761	484.11, 484.20
0938–0763	422.1–422.10, 422.50–422.80, 422.100–422.132, 422.300 –422.312, 422.400–422.404, 422.560–422.622
0938–0768	417.800–417.840
0938–0770	410.2
0938–0778	422.64, 422.111, 422.560–422.622
0938–0779	417.470, 417.126, 422.210, 422.64
0938–0781	411.404–411.406, 484.10
0938–0786	438.360, 438.362, 438.364
0938–0787	406.28, 407.27
0938–0790	460.12, 460.22, 460.26, 460.30, 460.32, 460.52, 460.60, 460.70, 460.71, 460.72, 460.74, 460.80, 460.82, 460.98, 460.100, 460.102, 460.104, 460.106, 460.110, 460.112, 460.116, 460.118, 460.120, 460.122, 460.124, 460.132, 460.152, 460.154, 460.156, 460.160, 460.164, 460.168, 460.172, 460.190, 460.196, 460.200, 460.202, 460.204, 460.208, 460.210
0938–0792	491.3, 491.8, 491.11
0938–0797	*45 CFR* 148
0938–0798	413.24, 413.65, 419.42
0938–0802	419.43
0938–0810	482.45
0938–0818	410.141–410.145, 414.63
0938–0819	45 CFR 146.121
0938–0823	420.410
0938–0824	482.13, 440.10
0938–0827	45 CFR 146.141
0938–0829	422.568
0938–0832	489
0938–0833	483.350–483.376
0938–0840	422.152
0938–0841	431.636, 457.50, 457.60, 457.70, 457.340, 457.350, 457.431, 457.440, 457.525, 457.560, 457.570, 457.740, 457.750, 457.810, 457.940, 457.945, 457.965, 457.985, 457.1005, 457.1015, 457.1180
0938–0842	412, 413
0938–0846	411.1, 411.350–411.357, 424.22
0938–0857	419
0938–0860	419
0938–0866	*45 CFR* Part 162
0938–0872	483.20, 413.337
0938–0873	422.152
0938–0874	*45 CFR* Parts 160 and 162
0938–0878	422 Subpart F & G
0938–0883	45 CFR parts 160 and 164
0938–0884	405.940
0938–0885	403.804, 403.806, 403.808, 403.810, 403.811, 403.820

Note: Sections in title 45 are preceded by ''45 CFR.''

[FR Doc. 03–16058 Filed 6–26–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5003–N2]

Medicare Program; Extension of Date of Submissions and Informational Meeting on the Application Process for the End-Stage Renal Disease—Disease Management Demonstration

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

ACTION: Notice of later date of submission of applications and of meeting.

SUMMARY: This notice announces that the date of submission of applications for the End-Stage Renal Disease (ESRD) Disease Management Demonstration is being extended 30 days (until October 2, 2003). This notice also announces an informational meeting to answer questions for and provide guidance to the parties interested in applying for the ESRD Disease Management Demonstration. This demonstration plans to increase the opportunity for Medicare beneficiaries with ESRD to receive integrated disease management services and to test the effectiveness of paying for services received by these beneficiaries in a new way. The meeting is open to the public, but attendance is limited to space available.

DATES: *Meeting Date*—The Informational meeting announced in this notice will be held on Monday, July 14, 2003, from 1 p.m. to 3 p.m. (Eastern Daylight Time). *Deadline for Written Questions and Registration:* Any interested party must register and may send written questions by mail, fax, or electronically, on or before 5 p.m. July 9, 2003.

ADDRESSES: The Informational meeting will be held in the main auditorium of the Centers for Medicare & Medicaid Services building, 7500 Security Boulevard, Baltimore, MD 21244. (All inquires should state their interest in attending, and give contact information including organization and telephone number).

Written Questions: Send written questions *via mail to following address:* Centers for Medicare & Medicaid Services, Attn: Sid Mazumdar, Division of Demonstration Programs, Office of Research, Development, and Information, Centers for Medicare & Medicaid Services,C4–15–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays. *E-mail* to the following e-mail address: *ESRDDemo@cms.hhs.gov fax to the following fax number:* (410) 786–1048

FOR FURTHER INFORMATION CONTACT: Sid Mazumdar, (410) 786–6673.

SUPPLEMENTARY INFORMATION:

I. Background

On June 4, 2003, we published a demonstration notice ''Medicare Program; Demonstration: End-Stage Renal Disease—Disease Management (CMS–5003-N) in the **Federal Register** (68 FR 33495), that informed interested parties of an opportunity to apply for a waiver that would allow them to participate in the End-Stage Renal Disease (ESRD) Disease Management Demonstration. This new demonstration will foster more types of integrated care for Medicare beneficiaries with ESRD. We seek to test innovative approaches to integrating the chronic care management services for patients with ESRD with other acute care services. The demonstration aims to test the effectiveness of disease management models to increase quality of care for ESRD patients while ensuring that this care is provided more effectively and efficiently. National organizations have defined approaches to disease management, in order to improve patient outcomes while containing health care costs. Disease management programs tend to target persons whose primary health problem is a specific disease, along with comorbid conditions. Interventions tend to be highly structured and emphasize the use of standard protocols and adherence to clinical guidelines.

II. Meeting Format

The initial portion of the meeting will be a presentation of an outline of the proposed demonstration project. The remainder of the meeting will be reserved for a question and answer session for interested parties.

III. Registration Instructions

The Division of Demonstration Programs is coordinating meeting registration. While there is no registration fee, all individuals must register to attend. Because this meeting will be located on Federal property, for security reasons, any persons wishing to attend this meeting must call Sid Mazumdar at (410) 786–6673 or e-mail *ESRDDemo@cms.hhs.gov* to register by close of business on July 9, 2003. Attendees must show photographic identification to the Federal Protective Service or Guard Service personnel before they will be permitted to enter the building. Individuals who have not registered in advance will not be allowed to enter the building to attend the meeting. Seating capacity is limited to the first 250 registrants. Our Atlanta, Boston, Chicago, Dallas, Denver, Kansas City, New York, Philadelphia, San Francisco, and Seattle, regional offices will host a Satellite Broadcast of the meeting for participants wanting to participate at these locations. These teleconference lines will be allotted on a first come, first serve basis.

Individuals requiring sign language interpretation for the hearing impaired or other special accommodations must contact Sid Mazumdar at least 10 days before the meeting.

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

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

Dated: June 24, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 03–16398 Filed 6–26–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1259–N]

Medicare Program; Public Meeting in Calendar Year 2003 for New Clinical Laboratory Tests Payment Determinations

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

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and location of a public meeting in accordance with section 1833 (h) of the Social Security Act and section 531 (b) of the Benefits Improvement and Protection Act (BIPA), Pub. L. 106–554. The meeting will be held on July 28, 2003 to discuss payment determinations for specific new Physicians' Current Procedural Terminology (CPT) codes for clinical laboratory tests. The meeting provides a forum for interested individuals to make oral presentations and/or submit written comments on the new codes that will be included in Medicare's Clinical Laboratory Fee

Schedule for calendar year 2004, which will be effective on January 1, 2004. The presentations and comments are to be directed toward technical issues relating to payment determinations for a specified list of new clinical laboratory codes. The development of the codes for clinical laboratory tests is largely performed by the CPT Editorial Panel and will not be further discussed at the CMS meeting.

DATES: The public meeting is scheduled for Monday, July 28, 2003 from 8:30 a.m. to 4 p.m., e.d.t.

ADDRESSES: The meeting will be held at the Centers for Medicare & Medicaid Services (CMS) Auditorium located at 7500 Security Boulevard, Baltimore, Maryland 21244.

Registration: *Registration Procedures:* Beginning July 2, 2003 registration may be completed on-line at *http://www.cms.hhs.gov/paymentsystems.* The following information must be submitted when registering: name, company name, address, telephone number, and e-mail address. When registering, individuals who want to make a presentation must also specify for which new clinical laboratory test code(s) they will be presenting. A confirmation will be sent upon receipt of the registration.

Registration Deadline: Individuals must register by July 23, 2003. If on-line registration is not used, individuals may register by fax to the attention of Anita Greenberg at (410) 786–0169.

FOR FURTHER INFORMATION CONTACT: Anita Greenberg (410) 786–4601.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Congress passed the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), Pub. L. 106–554. Section 531(b) of BIPA mandated procedures that permit public consultation for payment determinations for new clinical laboratory tests under Part B of title XVIII of the Social Security Act (the Act) in a manner consistent with the procedures established for implementing coding modifications for International Classification of Diseases (ICD–9–CM). The procedures and public meeting announced in this notice for new clinical laboratory tests are in accordance with the procedures published to implement section 531(b) of BIPA in the **Federal Register** at 66 FR 58743 on November 23, 2001. The public meeting is intended to provide expert input on the nature of new clinical laboratory tests and receive individual recommendations to either cross walk or gap-fill for payment. Decisions regarding payment for the newly created Physicians' Current Procedural Terminology (CPT) codes will not be made at this meeting. A summary of the new codes and the payment recommendations that are presented during the public meeting will be posted on CMS web site by September 10, 2003 and can be accessed at *http://www.cms.hhs.gov/paymentsystems.* The summary will also display CMS' tentative payment determinations, and interested individuals may submit written comments on the tentative payment determinations by September 24, 2003 to the address specified in the summary.

II. Presentations

This meeting is open to the public. The on-site check-in for visitors will be held from 8 to 8:30 a.m., followed by opening remarks. Registered persons from the public may discuss and recommend payment determinations for specific new CPT codes for the 2004 Clinical Laboratory Fee Schedule. A newly created CPT code can either represent a refinement or modification of existing test methods, or a substantially new test method. The newly created CPT codes for the calendar year 2004 will be listed at the web site *http://www.cms.hhs.gov/paymentsystems* on or after July 2, 2003.

Presentations should be brief, and three written copies should be submitted to accompany the oral presentation. Presenters may also make copies available for approximately 50 meeting participants. Presenters should address the new test code(s) and descriptor, the test purpose and method, costs, charges, and a recommendation with rationale for one of two methods for determining payment for new clinical laboratory codes. In the first method, called cross walking, a new test is determined to be similar to an existing test, multiple existing test codes, or a portion of an existing test code. The new test code is then assigned the related existing local fee schedule amounts and resulting national limitation amount. The second method, called gap-filling, is used when no comparable, existing test is available. Then instructions are provided to each Medicare carrier to determine a payment amount for its geographic area(s) for use in the first year, and the carrier-specific amounts are used to establish a national limitation amount for following years. For each new clinical laboratory test code, a determination must be made to either cross walk or to gap-fill, and, if cross walking is appropriate, to know what tests to which to cross walk.

III. General Information

The meeting will be held in a Federal government building; therefore, Federal security measures are applicable. In order to gain access to the building and grounds, participants must bring a government-issued photo identification and a copy of their registration confirmation. Security measures include inspection of vehicles, at entrance to the grounds, and the requirement for persons to pass through a metal detector when entering the building. All items brought to CMS, whether personal or for the purpose of demonstration or to support a presentation, are subject to inspection.

Special Accommodation: Persons attending the meeting who are hearing or visually impaired and have special requirements, or a condition that requires special assistance, should provide such information upon registering for the meeting.

Authority: Section 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 42 U.S.C. 1395hh)

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

Dated: June 11, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 03–16056 Filed 6–26–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Administration for Children and Families; Refugee Microenterprise Development Program

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Notice of availability of FY 2003 social services discretionary funds for refugee microenterprise development projects.

CFDA Number: The Catalog of Federal Domestic Assistance number for this program is 93.576. The title of the program is the Refugee Microenterprise Development Program.

SUMMARY: The Office of Refugee Resettlement (ORR) invites eligible entities to submit competitive grant applications for microenterprise

development projects for refugees.[1] Applications will be accepted pursuant to the Director's discretionary authority under section 412(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1522(c)), as amended. Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: The closing date for submission of applications is 30 days from date of publication in the **Federal Register.** *See* Part IV of this announcement for more information on submitting applications.

Announcement Availability: This program announcement and the application materials are available on the Office of Refugee Resettlement Web site at *http://www.acf.hhs.gov/programs/orr/funding.*

FOR FURTHER INFORMATION, CONTACT: Lisa Campbell, Division of Community Resettlement, Office of Refugee Resettlement, Administration for Children and Families, at (202) 205–4597 or *LCampbell@ACF.HHS.GOV* or Daphne Weeden, Division of Discretionary Grants, Office of Grants Management, Administration for Children and Families, at (202) 260–5980 or *paqueries-ogm@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background, legislative authority, funding availability, applicant eligibility, project and budget periods, program purpose and scope, client eligibility, allowable activities, and treatment of program income.

Part II: General instructions for preparing a full project description.

Part III: The Review Process—Intergovernmental review, initial ACF screening, competitive review, and review criteria.

Part IV: The Application—Application materials, application submission information, regulations, and reporting.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 25 hours, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collections are included in the program announcement: OMB Approval No. 0970–0139, ACF Uniform Project Description (UPD) which expires 12/31/2003. 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.

Part I: Background

The Office of Refugee Resettlement (ORR) has supported the field of microenterprise development since 1991 with discretionary grants to various State governments, community economic development agencies, community action and other human service agencies, local mutual assistance associations, and voluntary agencies. Organizations with successful programs have typically been those with a long-term commitment to microenterprise and to its adaptation to the refugee experience. They have committed agency resources to support refugee programs and their work in refugee microenterprise development has been consistent with the overall agency mission. A public or private non-profit agency interested in receiving funding under this announcement must have the organizational capacity to work with refugees who have low incomes, limited English language proficiency, and neither assets nor American business experience. Many newly arrived refugees do not qualify for commercial loans or for admission into mainstream microenterprise development programs for these reasons.

Refugees bring positive attributes to microenterprise development projects, including a diverse and rich array of business ideas, skills, experiences, and ambitions. These characteristics have been largely responsible for the success of the ORR program. During the last ten years, refugees have started or expanded over 800 micro-businesses and over 89 percent of these businesses have survived. ORR grantees have provided over $3 million in financing to these entrepreneurs and the loan repayment rate is close to 100 percent. Over 4,000 refugees have gained new entrepreneurial skills and knowledge and the additional business income is helping refugee families to achieve economic self-sufficiency. By commonly accepted measures of performance (business survival rates, loan default rates, etc.), the ORR-funded programs have excelled and frequently led the field in achievement.

Building on the experience of the last ten years, ORR seeks in this announcement to continue support to this field, particularly on behalf of those refugees who, because of language and cultural barriers, are unlikely to gain access to commercial loans or business training through other programs. To be successful in this competition, refugee-serving organizations must demonstrate their agency's capacity to provide the technical expertise necessary to help refugees start or expand businesses. Economic development agencies must show how they will modify their existing programs to serve refugees effectively.

Legislative Authority: Section 412(c)(1)(A) of the Immigration and Nationality Act (INA)(8 U.S.C. 1522(c)(1)(A)) authorizes the Director ''to make grants to, and enter into contracts with, public or private non-profit agencies for projects specifically designed—(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.'' In addition, section 412(a)(4)(A)(1) of the INA (8 U.S.C. 1522(a)(4)(A)(1) authorizes the Director to make loans for the purpose of carrying out this section.

Funding Availability: ORR expects to make available approximately $4 million for Microenterprise Development projects for about 15 to 25 awards in amounts ranging from $100,000 to $300,000. The award amount range is for planning purposes. Applications with requested amounts that exceed the upper value of the dollar range specified will still be considered for review. No matching or cost sharing by the applicant is required.

Applicant Eligibility: Eligible applicants are public and private non-profit agencies. Faith-based and community organizations are eligible to apply for these grants.

Private, non-profit agencies are encouraged to submit with their applications the optional survey located under ''Grant Manuals and Forms'' at *www.hhs.gov/programs/ofs/forms.htm.*

Project and Budget Periods: This announcement invites applications for

[1] Eligibility for refugee social services includes: (1) Refugees; (2) asylees; (3) Cuban and Haitian entrants; (4) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants; (5) certain Amerasians from Vietnam, including U.S. citizens; and (6) victims of a severe form of trafficking (*see* 45 CFR 400.43 and ORR State Letters Number 01–13 as modified by Number 02–01 on trafficking victims). For convenience, the term ''refugee'' is used in this notice to encompass all such eligible persons. Additional information on eligibility is available at: *http://www.acf.hhs.gov/programs/orr/policy/s101–13.htm* and *http://www.acf.hhs.gov/programs/orr/policy/s102–01.htm.*

project periods up to four years. Awards, on a competitive basis, will be for a one-year budget period. Applications for continuation grants funded under these awards beyond the one-year budget period but within the four-year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

Refugee Microenterprise Development Program—Purpose and Scope

The purpose of microenterprise development is to assist refugees in becoming economically self-sufficient and to help refugee communities in developing employment and capital resources. To achieve this purpose, applicants for microenterprise development projects may request funds for: Business technical assistance, short-term training, credit in the form of microloans, the administrative costs of managing the project, a revolving microloan fund or loan loss reserve fund, and post-loan technical assistance.

Projects should be designed in a manner that is culturally and linguistically appropriate for the refugee population, including characteristics such as employment rates, welfare status, length of time in the U.S., interest in micro-businesses, and English language proficiency. Applicants should also be familiar with the capital needs and capital market gaps for refugee entrepreneurs and should demonstrate how refugees will gain access to business credit.

Successful applicants will demonstrate an understanding of the economic opportunities in the community for refugees and will have established working partnerships with the communities' refugee resettlement services network, with existing microenterprise development organizations (where they are present), and with financial institutions.

ORR will not fund applicants who propose to subgrant or contract all or most of the proposed activities under this program to an unrelated entity. Subgranting or contracting for specific services or activities is not barred as long as the applicant proposes to perform directly some of the essential functions of the grant.

Client Eligibility: Eligible clients are refugees who aspire to establish, expand, or stabilize a microenterprise but who lack the financial resources, credit history, or personal assets to qualify for business loans or assistance through commercial institutions. Refugees may participate regardless of their date of arrival in the U.S. Grantees will be responsible for documenting refugee client eligibility.

Allowable Activities: Project components may include one-on-one business consultation and training, training in classroom settings, access to business credit, individual or peer group lending, revolving loan funds, loan loss reserve funds, and technical assistance to refugee businesses. ORR funds may also be used for the administrative costs associated with managing a revolving loan fund.

Microloans consist of small amounts of credit that are less than $15,000 and are extended to low-income entrepreneurs for start-ups of microenterprises or for the expansion or stabilization of existing microenterprises. Applicants may elect to establish cooperative relationships with one or more of the community's financial institutions to obtain access to commercial loan funds. Alternatively, ORR funds may be used for microloans to individual refugee entrepreneurs in sums not to exceed $15,000 (of ORR monies). These funds may be disbursed through individual loans, peer lending mechanisms, or a revolving loan fund. Requests for ORR grant funds for a revolving loan fund may not exceed $50,000 in the first budget period. Grantees will be responsible for establishing written lending policies and procedures and for collecting and servicing loan repayments.

ORR supports the use of commercial lending institutions for refugee borrowers to leverage the limited amount of ORR funds available for this purpose and to provide borrowers with the opportunity to establish credit-worthy histories with traditional lenders. To that end, ORR does not encourage the use of below-market rates of interest for the loan funds. Conversely, grantees may not charge refugees interest rates that exceed four percentage points above the New York prime lending rate at the time of loan approval.

Microloans will have a maximum maturity of three years. They may be used for working capital, inventory, supplies, furniture, fixtures, machinery, tools, equipment, building renovation, and/or leasehold improvements.

Microloan funds may not be used for the following types of businesses:

—As venture capital for established businesses that are attempting major expansion;
—for enterprises engaged in gambling or speculation;
—for any illegal activity or production or for the service or distribution of illegal products;
—for purposes not related to microenterprise development; *e.g.,* for the purchase of a personal-use automobile.

Treatment of Program Income: Projects with revolving loan funds may earn and retain program income in the form of interest (on individual loans or from loan loss reserves). Specifically, program income funds may be retained by the project to expand the pool of credit in accordance with 45 CFR 74.24 (b)(1), (b)(2) and (e) for non-profit organizations and 45 CFR 92.25 (g)(2) for governmental entities. Similarly, repaid loan principal is to be treated as program income and placed in the revolving loan fund for re-lending. Program income may be retained by the grantee so long as the use of these funds furthers the objectives of the grant and is consistent with the Federal statute under which the grant was made (45 CFR 74.36e).

Any fees or charges imposed on refugee clients by the grantee or its subcontractors or affiliates (*e.g.,* loan processing or training fees) must be disclosed in the application and pre-approved by ORR. Program income must be reported on the Financial Status Report (SF–269) semi-annually during the project period.

Successful grantees will be expected to coordinate their policies and procedures for developing and administering refugee microenterprise development projects with the existing refugee microenterprise services network. To ensure an exchange of technical and training information among programs, all grantees are encouraged to attend two ORR training meetings during each year of their participation in this program area. Grant funds may be used to offset the cost of attendance.

Part II: General Instructions for Preparing a Full Project Description

The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each

specific evaluation criteria should be provided. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix. The application narrative should be in a 12-pitch font. A table of contents and an executive summary should be included. Each page should be numbered sequentially, including any attachments or appendices.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, ORR is particularly interested in the number of businesses established, expanded, or stabilized; the employment generated by the businesses; the number and size of loans provided to refugees; the amount of additional funds leveraged by the ORR funds for microenterprise loans, and the impact of the businesses assisted on the refugees' movement toward self-sufficiency.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data are to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Additional Information

Following are requests for additional information that need to be included in the application:

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports, or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses, and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by including in the application:

a. A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code.

b. A copy of a currently valid IRS tax exemption certificate.

c. A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earning accrue to any private shareholders or individuals.

d. A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

e. Any of the items in the above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public, and commercial leaders that support the project proposed for funding. All submissions should be included in the application OR by application deadline.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information Form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, *etc.*

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ORR-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open, and free competition. Recipients and subrecipients, other than States that are required to use part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, *etc.*

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description, and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should, immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates and submit it to the cognizant agency.

Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application that contain this information.

Nonfederal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

[Self-explanatory]

Part III: The Review Process

Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

The following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions need not take action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility criteria of the program may still apply for a grant even if a State, Territory, Commonwealth, *etc.,* does not have a Single Point of Contact (SPOC). All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations, which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: Daphne Weeden, Grants Officer, 370 L'Enfant Promenade, SW., Fourth Floor West, Washington, DC 20447.

A list of the Single Points of Contact for each participating State and Territory is included with the application materials for this program announcement. The list can also be found on the Internet at *http://www.Whitehouse.gov/OMB/index.html.*

Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was mailed by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

Competitive Review

Applications, which pass the initial ACF screening, will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria were designed to assess the quality of a proposed project and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement.

Review Criteria

Applications will be reviewed using the following evaluation criteria:

1. *Approach.* (25 points) Adequacy and appropriateness of the program approach or design, including project goals and structure (policies, procedures, activities); training and technical assistance; loan funds, lending criteria, and fees, if included in the design; whether the business targets are start-ups, expansions, or both; partner agencies; and credit enhancements, such as loan loss reserve funds.

2. *Organization Profiles.* (25 points) Demonstrated organizational and management capacity including bilingual/bicultural competent services and experience serving refugees and other economically disadvantaged populations; description of experience in organizational management, including copies of the last two fiscal year financial statements, with balance sheets and income statements; description of experience in providing microenterprise development services and in the management of loan funds, including a projected monthly cash flow chart for the loan fund for the four-year period beginning September 30, 2003; and experience in collaboration with the specific refugee community(ies) and coalition building among refugee and non-refugee service providers.

3. *Results and Expected Benefits.* (20 points) Extent to which the expected outcomes and unit costs of the project are appropriate, consistent with reported nationwide performance in microenterprise projects, and reasonable in relation to the proposed activities. Results may include the impact of business income and business assets on clients' welfare status, if applicable, and on economic self-sufficiency as well as projected outcomes for business income, employment, and survivability.

4. *Objectives and Need for Assistance.* (15 points) Quality of the description of the prospective refugee communities' profile with respect to welfare utilization, English language proficiency, length of time in the U.S., interest in microbusiness, and the description of local capital needs and capital market gaps for refugee microentrepreneurs.

5. *Budget and Budget Justification.* (15 points) Appropriateness and reasonableness of the proposed budget, including the relative distribution of funds for administrative costs, training, technical assistance, and loan capital. The application should include project timelines and a narrative justification supporting each budget line item.

Part IV: The Application

Application Materials: In order to be considered for a grant under this program announcement, an application must be submitted on the Standard Form 424 and in the manner prescribed by ACF. Application materials, including forms and instructions, are available from the ORR Web site at *http://acf.hhs.gov/programs/orr/funding.* The application materials are also available from the contact named under the **FOR FURTHER INFORMATION CONTACT** section in the preamble of this announcement.

An application with an original signature and two clearly identified copies are required. Applicants must clearly indicate on the SF–424 the grant announcement number under which the application is submitted. Applicants have the option of omitting from the application copies (not from the original) specific salary rates or amounts for individuals specified in the application budget.

Application Submission and Deadline

Mailed applications postmarked after the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: Daphne Weeden, Grants Officer, 370 L'Enfant Promenade, SW., Mail Stop 6C–462, Washington, DC 20447.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as a proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: Daphne Weeden, Grants Officer. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. Determination to extend or waive deadline requirements rest with the Chief Grants Management Officer.

For Further Information on Application Deadlines, Contact: Daphne Weeden, Grants Officer, Division of Discretionary Grants, Office of Grants Management, Administration for Children and Families, 370 L'Enfant Promenade, SW, Fourth Floor West, Washington, DC 20447. Telephone: (202) 401–4577.

Certifications, Assurances, and Disclosure Required for Non-Construction Programs—Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a signed certification regarding lobbying with their applications, when applying for an award in excess of $100,000. Applicants who used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying.

Applicants must make the appropriate certification of their compliance with the Drug Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended, or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the application.

Administrative Regulations: Applicable U.S. Department of Health and Human Services regulations can be found at 45 CFR part 74 or part 92.

Post-Award Reporting Requirements: Grantees are required to file the Financial Status Report (SF–269) and Program Performance Reports on a semi-annual basis. Funds issued under these awards must be accounted for, and reported upon, separately from all other grant activities. Although ORR does not expect the proposed projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Grants Officer. The mailing address is: Ms. Daphne Weeden, Grants Officer, Division of Discretionary Grants, Office of Grants Management, Administration for Children and Families, 370 L'Enfant Promenade, SW., Fourth Floor West, Washington, DC 20447. A final Financial Status Report and Program Performance Report shall be due 90 days after the budget expiration date or termination of grant support.

Dated: June 24, 2003.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

[FR Doc. 03–16346 Filed 6–26–03; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Certificate of Registration

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Certificate of Registration. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments form the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 19558–19559) on April 21, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 28, 2003.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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, *e.g.*, permitting electronic submission of responses.

Title: Certificate of Registration.

OMB Number: 1651–0010.

Form Number: Forms 4455 and 4457.

Abstract: The Certificate of Registration is used to expedite free entry or entry at a reduced rate on foreign made personal articles which are taken abroad. The articles are dutiable each time they are brought into the United States unless there is acceptable proof of prior possession.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Individuals, travelers.

Estimated Number of Respondents: 200,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 10,000.

Estimated Total Annualized Cost on the Public: $104,500.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 16, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16253 Filed 6–26–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Protest

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Protest. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 19555–19556) on April 21, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 28, 2003.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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, *e.g.,* permitting electronic submission of responses.

Title: Protest.

OMB Number: 1651–0017.

Form Number: Form 19.

Abstract: This collection is used by an importer, filer, or any party at interest to petition CBP, or Protest, any action or charge, made by the port director on or against any; imported merchandise, merchandise excluded from entry, or merchandise entered into or withdrawn from a bonded warehouse.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 3,750.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 67,995.

Estimated Total Annualized Cost on the Public: $1,167,247.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 16, 2003.

Tracey Denning,

Agency Clearance Officer Information Services Branch.

[FR Doc. 03–16254 Filed 6–26–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Exportation of Used Self-Propelled Vehicles

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Exportation of Used Self-Propelled Vehicles. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 19557–19558) on April 21, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 28, 2003.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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, *e.g.,* permitting electronic submission of responses.

Title: Exportation of Used-Propelled Vehicles.

OMB Number: 1651–0054.

Form Number: None.

Abstract: The Exportation of Used-Propelled Vehicles requires the submission of documents verifying vehicle ownership of exporters for exportation of vehicles in the United States.

Current Actions: This submission is being submitted to extend the expiration date with a change to the burden hours.

Type of Review: Extension (with change).

Estimated Number of Respondents: 750,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 125,000.

Estimated Total Annualized Cost on the Public: $2,163,750.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 16, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16255 Filed 6–26–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Importer's Input Record

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Importer's Input Record. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments form the public and affected agencies. This proposed information

collection was previously published in the **Federal Register** (68 FR 19559–19560) on April 21, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 28, 2003.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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, *e.g.*, permitting electronic submission of responses.

Title: Importers ID Input Record.

OMB Number: 1651–0064.

Form Number: Form-5106.

Abstract: This document is filed with the first formal entry which is submitted or the first request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 100.

Estimated Total Annualized Cost on the Public: $13,750.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 16, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16256 Filed 6–26–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Petroleum Refineries in Foreign Trade

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Petroleum Refineries in Foreign Trade. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 19557–19558) on April 21, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 28, 2003.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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, *e.g.*, permitting electronic submission of responses.

Title: Petroleum Refineries in Foreign Trade Subzones.

OMB Number: 1651–0063.

Form Number: None.

Abstract: The Petroleum Refineries in Foreign Trade Subzones is a rule that amended the regulations by adding special procedures and requirements governing the operations of crude petroleum and refineries approved as foreign trade zones.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 18.

Estimated Time Per Respondent: 732.

Estimated Total Annual Burden Hours: 13,176.

Estimated Total Annualized Cost on the Public: $329,400.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 16, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16257 Filed 6–26–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Foreign Assembler's Declaration

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Foreign Assembler's Declaration. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 19554) on April 21, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 28, 2003.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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, *e.g.,* permitting electronic submission of responses.

Title: Foreign Assembler's Declaration (with Endorsement by Importer).

OMB Number: 1651–0031.

Form Number: N/A.

Abstract: The Foreign Assembler's Declaration with Importer's Endorsement is used by CBP to substantiate a claim for duty free treatment of U.S. fabricated components sent abroad for assembly and subsequently returned to the United States.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,730.

Estimated Time Per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 302,402.

Estimated Total Annualized Cost on the Public: $3,860,608.00.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 17, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16258 Filed 6–26–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Crew Member's Declaration

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security 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: Crew Member's Declaration. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended without a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (68 FR 19555) on April 21, 2003, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 28, 2003.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of the Treasury Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork

Reduction Act of 1995 (Pub. L.104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections 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, *e.g.,* permitting electronic submission of responses.

Title: Crew Members Declaration.

OMB Number: 1651–0021.

Form Number: Form-5129.

Abstract: This document is used to accept and record importations of merchandise by crew members, and to enforce agricultural quarantines, the currency reporting laws, and the revenue collection laws.

Current Actions: This submission is to extend the expiration date without a change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Individuals, business or other for-profit.

Estimated Number of Respondents: 5,968,351.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 298,418.

Estimated Total Annualized Cost on the Public: $5,968,360.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–927–1429.

Dated: June 17, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–16259 Filed 6–26–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4809–N–26]

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.

EFFECTIVE DATE: June 27, 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 19, 2003.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 03–15981 Filed 6–26–03; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4837–D–39]

Amendments to Redelegations of Authority ConcerningOffice of the General Counsel Field and Regional Counsel

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: In accordance with the amendment made by this notice, all redelegations of authority to Field Assistant General Counsel, currently in effect, are now considered reference to the Regional Counsel for the relevant HUD geographical area.

EFFECTIVE DATE: June 17, 2003.

FOR FURTHER INFORMATION CONTACT: Bessie C. Henderson, Assistant General Counsel for Field and Management Operations Staff, Department of Housing and Urban Development, Room 10241, 451 Seventh Street, SW., Washington, DC 20410–0500, telephone: (202) 708–4188. (This is not a toll-free number.) For those needing assistance, this number may be accessed through TTY by calling the toll-free Federal Information Relay Service number at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: By a notice published on March 26, 2002 (67 FR 13790), the title of Field Assistant General Counsel was changed to the title of Regional Counsel and HUD Regional Directors were provided the authority necessary to manage programs and resources located in HUD regional and field offices nationwide.

The title of Assistant General Counsel for Region I has been changed to Regional Counsel for Region I (Boston, MA); the title of Assistant General Counsel for Region II has been changed to Regional Counsel for Region II (New York, NY); the title of Assistant General Counsel for Region III has been changed to Regional Counsel for Region III (Philadelphia, PA); the title of Assistant General Counsel for Region IV has been changed to Regional Counsel for Region IV (Atlanta, GA); the title of Assistant General Counsel for Region V has been changed to Regional Counsel for Region V (Chicago, IL); the title of Assistant General Counsel for Region VI has been changed to Regional Counsel for Region VI (Ft. Worth, TX); the title of Assistant General Counsel for Region VII has been changed to Regional Counsel for Region VII (Kansas City, KS); the title of Assistant General Counsel for Region VIII has been changed to Regional Counsel for Region VIII (Denver, CO); the title of Assistant General Counsel for Region IX has been changed to Regional Counsel for Region IX (San Francisco, CA); and the title of Assistant General Counsel for Region X has been changed to Regional Counsel for Region X (Seattle, WA).

All redelegations of authority currently in effect for the Office of the General Counsel are amended to read Regional Counsel for the relevant geographic area.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: June 17, 2003.

Richard A. Hauser,

General Counsel.

[FR Doc. 03–16247 Filed 6–26–03; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; Sandhill Crane Harvest Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service has submitted the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. If you wish to obtain copies of the proposed information collection requirement, related forms, or explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

DATES: We will accept comments until July 28, 2003.

ADDRESSES: Submit your comments on this information collection renewal to the Desk Officer for the Department of the Interior at OMB-OIRA via facsimile or e-mail using the following fax number or e-mail address: (202) 395–5806 (fax); *ruth_solomon@omb.eop.gov* (e-mail). Please provide a copy of your comments to the Fish and Wildlife Service's Information Collection Clearance Officer, 4401 N. Fairfax Dr., MS 222 ARLSQ, Arlington, VA 22207; (703) 358–2269 (fax); or *anissa_craghead@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information, or related forms, contact Anissa Craghead at (703) 358–2445, or electronically to *anissa_craghead@fws.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). The U.S. Fish and Wildlife Service (We) have submitted a request to OMB to renew its approval of the collection of information for the Sandhill Crane Harvest Survey. We are requesting a 3-year term of approval for this information collection activity.

Federal agencies 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 number for this collection of information is 1018–0023.

The Migratory Bird Treaty Act (16 U.S.C. 703–712) and Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for the wise management of migratory bird populations frequenting the United States and for the setting of hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well being. These responsibilities dictate the gathering of accurate data on various characteristics of migratory bird harvest. Knowledge attained by determining harvests and harvest rates of migratory game birds is used to regulate populations (by promulgating hunting regulations) and to encourage hunting opportunity, especially where crop depredations are chronic and/or lightly harvested populations occur. Based on information from harvest surveys, hunting regulations can be adjusted as needed to optimize harvests at levels that provide a maximum of hunting recreation while keeping populations at desired levels.

This information collection approval request seeks approval for us to continue conducting the Sandhill Crane Harvest Survey. This is an annual questionnaire survey of people who obtained a sandhill crane hunting permit. At the end of the hunting season, we randomly select a sample of permit holders and send those people a questionnaire that asks them to report the date, State, county, and number of birds harvested for each of their sandhill crane hunts. Their responses provide estimates of the temporal and geographic distribution of the harvest, as well as the average harvest per hunter, which, combined with the total number of sandhill crane permits issued, enables the Service to estimate the total harvest of sandhill cranes.

The Sandhill Crane Harvest Survey enables us to annually estimate the magnitude of the harvest and the portion it constitutes of the total mid-continent sandhill crane population. Based on information from this survey, hunting regulations are adjusted as needed to optimize harvest at levels that provide a maximum of hunting recreation while keeping populations at desired levels.

On November 19, 2002, we published in the **Federal Register** (67 FR 69756) a notice informing the public that we are submitting the forms described below to OMB for approval under the Paperwork Reduction Act. We requested public comment on the information collection for 60 days, ending January 21, 2003. By that date, we did not receive any comments in response to the notice.

Title: Sandhill Crane Harvest Survey.

Approval Number: 1018–0023.

Service Form Number(s): 3–530, 3–530A, 3–2056N.

Frequency of Collection: Annually.

Description of Respondents: Individuals and households.

Number of Respondents: About 6,500 hunters will respond to the Sandhill Crane Harvest Survey annually.

Total Annual Burden Hours: We estimate the reporting burden to average 5 minutes per respondent. Total annual burden is 540 hours.

We again invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our migratory bird management functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of records covered by the Privacy Act (5 U.S.C 552(a)).

Dated: June 24, 2003.

Anissa Craghead,

Information Collection Officer, Fish and Wildlife Service.

[FR Doc. 03–16310 Filed 6–26–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–920–03–1220–DT]

Notice of Availability of the Record of Decision for the Off-Highway Vehicle Environmental Impact Statement and Proposed Plan Amendment for Montana, North Dakota and South Dakota

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Federal Land Policy and Management

Act and the National Environmental Policy Act, the Bureau of Land Management (BLM) announces the availability of the Record of Decision for the Off-Highway Vehicle Environmental Impact Statement (EIS) and Proposed Plan Amendment for Montana, North Dakota, and South Dakota. The BLM decision restricts motorized wheeled cross-country travel yearlong on approximately 5.8 million acres of public land in the three states. The public land is designated a limited area under BLM regulation 43 CFR 8342 and as defined under 43 CFR 8340.0–5(g). The area restriction includes no motorized wheeled cross-country travel, with some exceptions, as defined in the Record of Decision. The Final FEIS and Proposed Plan Amendment were available for protest from January 12, 2001, through February 12, 2001. All protests and comments received were considered during the preparation of the ROD.

ADDRESSES: Copies of the ROD have been sent to affected Federal, State, and local government agencies and to interested parties. The document will be available electronically on the following Web site: *http://www.mt.blm.gov.* Copies of the ROD are available for public inspection at the following BLM office locations: Office of External Affairs, Main Interior Building, Room 6214, 18th and C Streets NW., Washington, DC 20240; External Affairs Office; Montana State Office, 5001 Southgate Drive, Billings, MT 59101.

FOR FURTHER INFORMATION CONTACT: Jim Beaver, Planning and Environmental Coordinator, (406) 896–5023, or George Peternel, OHV Coordinator, (406) 896–5037, Bureau of Land Management, 5001 Southgate Drive, Billings, MT 59101.

SUPPLEMENTARY INFORMATION: The BLM administers 8.4 millions acres of public land within nine field offices in Montana, North Dakota, and South Dakota. About 5.8 million acres were previously designated as available to motorized wheeled cross-country travel, either seasonally or yearlong, and are affected by this Record of Decision.

The preferred alternative (Alternative E) in the OHV FEIS and Proposed Plan Amendment has been selected as the approved plan. The BLM will restrict motorized wheeled cross-country travel yearlong on approximately 5.8 million acres to protect riparian areas, wetlands, crucial wildlife habitat, threatened or endangered species, soils and vegetation, aquatic resources, and to reduce user conflicts. The BLM recognizes there are some valid needs for motorized wheeled cross-country travel, which are discussed in the Record of Decision. The Record of Decision amends nine BLM land use plans: Big Dry Resource Management Plan (RMP), Billings RMP, Dillon Management Framework Plan, Headwaters RMP, Judith-Valley-Phillips RMP, North Dakota RMP, Powder River RMP, South Dakota RMP, and West HiLine RMP.

Dated: May 8, 2003.

A. Jerry Meredith,

Acting State Director.

[FR Doc. 03–16165 Filed 6–26–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–100–03–1820–PG]

Science Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Science Advisory Board will meet as indicated below.

DATES: The meeting will be held July 28, 2003, at BLM's Eugene District Office, 2890 Chad Drive, Eugene, Oregon. The public comment period will begin at approximately 4:30 p.m., and the meeting will adjourn at approximately 5 p.m.

FOR FURTHER INFORMATION, CONTACT: Lee Barkow, Bureau of Land Management, Denver Federal Center, Building 50, P.O. Box 25047, Denver, CO 80225–0047, 303–236–6454.

SUPPLEMENTARY INFORMATION: The Science Advisory Board advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of science issues. At this meeting, topics we plan to discuss include:

Science behind the Northwest Forest Plan,
Health Forest Initiative Update,
Cooperative Forest Ecosystem Research,
Timbered Rock EIS—Example of a Research Alternative,
Science Advisory Board Assignments,
Public Comment.

The agenda is subject to revision.

All meeting are open to the public. The public may present written comments to the Board. Each formal Board meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation, or other reasonable accommodations, should contact the BLM as provided in **FOR FURTHER INFORMATION, CONTACT.**

Dated: June 23, 2003.

Lee Barkow,

Director, National Science and Technology Center.

[FR Doc. 03–16279 Filed 6–26–03; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–430A and 430B and 731–TA–1019A and 1019B (Final)]

Durum and Hard Red Spring Wheat From Canada

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: June 19, 2003.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On May 8, 2003, the Commission established a schedule for the conduct of the final phase of the subject investigations (68 FR 28253, May 23, 2003). Subsequently, the Department of Commerce extended the date for its final countervailing duty and antidumping determinations in the investigations from July 21, 2003, to August 28, 2003 (68 FR 35381, June 13, 2003). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: Requests

to appear at the hearing must be filed with the Secretary to the Commission not later than August 28, 2003; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 2, 2003; the prehearing staff report will be placed in the nonpublic record on August 21, 2003; the deadline for filing prehearing briefs is August 28, 2003; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 4, 2003; the deadline for filing posthearing briefs is September 11, 2003; the Commission will make its final release of information on September 26; and final party comments are due on September 30.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: June 24, 2003. By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–16363 Filed 6–26–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1043–1045 (Preliminary)]

Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations No. 731–TA–1043–1045 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Malaysia, and Thailand of polyethylene retail carrier bags, provided for in subheading 3923.21.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in antidumping investigations in 45 days, or in this case by August 4, 2003. The Commission's views are due at Commerce within five business days thereafter, or by August 11, 2003.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: June 20, 2003.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on June 20, 2003, by the Polyethylene Retail Carrier Bag Committee, an ad hoc coalition of U.S. polyethylene retail carrier bag producers, consisting of PCL Packaging, Inc., Barrie, Ontario, Canada; Sonoco Products Company, Hartsville, SC; Superbag Corp., Houston, TX; Vanguard Plastics, Inc., Farmers Branch, TX; and Inteplast Group, Ltd., Livingston, NJ.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on Friday, July 11, 2003, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) and provide a witness list for their appearance not later than Wednesday, July 9, 2003. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 16, 2003, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection

with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

Issued: June 24, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–16362 Filed 6–26–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1015–1016 (Final)]

Polyvinyl Alcohol From Germany and Japan

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is threatened with material injury [2] by reason of imports from Japan of polyvinyl alcohol (''PVA''),[3] provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).[4] The Commission also determines, pursuant to section 735(b) of the Act, that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Germany of PVA that have been found by Commerce to be sold in the United States at LTFV.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)), the Commission further determines that it would not have found material injury by reason of the subject imports from Japan but for any suspension of liquidation of entries of that merchandise.

[3] For purposes of these investigations, PVA is defined as all polyvinyl alcohol hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as excluded from the definition. The following forms of polyvinyl alcohol are excluded from the definition of PVA:

(1) PVA in fiber form;

(2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles;

(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps;

(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application;

(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification;

(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;

(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application;

(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material;

(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;

(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications;

(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;

(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; and

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent certified for use in a paper application.

[4] Vice Chairman Jennifer A. Hillman made a negative determination with respect to Japan.

Background

The Commission instituted these investigations effective September 5, 2002, following receipt of a petition filed with the Commission and Commerce by Celanese, Ltd. of Dallas, TX and E.I. du Pont de Nemours & Co. of Wilmington, DE. The final phases of the investigations were scheduled by the Commission following notification of preliminary determinations by Commerce that imports of polyvinyl alcohol from Germany and Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phases of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 7, 2003 (68 FR 11144). The hearing was held in Washington, DC, on May 8, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 18, 2003. The views of the Commission are contained in USITC Publication 3604 (June 2003), entitled Polyvinyl Alcohol from Germany and Japan: Investigations Nos. 1015–1016 (Final).

By order of the Commission.

Issued: June 23, 2003.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–16364 Filed 6–26–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 13, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or E-Mail: *King.Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316/ this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Revision of a currently approved collection.

Title: Standard Job Corps Request for Proposal and Related Contractor Information Gathering.

OMB Number: 1205–0219.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 188.

Information collection requirement	Annual responses	Frequency	Average response time (hours)	Annual burden hours
Request for Proposals (RFP):				
RFP—Experience Contractor	27	Annually	300.00	8,100
RFP—Inexperience Contractor	9	Annually	800.00	7,200
Sub-total:	36			15,300
Automated Forms:				
Center Financial Report—ETA–2110	1,192	90@12/year 28@4/year	1.00	1,192
Center Operations Budget—ETA–2181/2181A	270	3x/year	1.00	270
Sub-total:	1,462			1,462
Center Information Data Collection:				
Job Corps Utilization Summary—ETA–6–127	1,416	Monthly	0.02	24
Disciplinary Discharge—ETA–6–131A	1,500	Annually	0.02	25
Review Board Hearings—ETA–6–131B	1,500	Annually	0.02	25
Rights to Appeal—6–131C	1,500	Annually	0.02	25
Student Profile—ETA–6–40	1,500	Annually	0.02	25
Notice of Termination—ETA–6–61	1,500	Annually	0.02	25
Property Inventory Transcription—ETA3–28	6,552	Weekly	0.05	328
Sub-total:	15,468			476
Non-automated Forms:				
Job Corps Health Staff Activity—ETA–6–125	118	Annually	0.42	49
Job Corps Health Annual Service Cost—ETA–6–128	118	Annually	0.42	49
Immunization Record—ETA–6–112	71,000	Annually	0.08	5,917
CM Health Record Envelope—ETA–6–135	71,000	Annually	0.22	15,383
CM Health Record Envelope—ETA–6–136	71,000	Annually	0.22	15,383
Inspection Residential and Education Facilities—ETA–6–37	472	Quarterly	0.08	39
Inspection Waste Treatment Facilities Cost—ETA–6–39	92	Quarterly	1.42	131
Inspection Water Supply Facilities—ETA–6–38	472	Quarterly	1.42	670
Sub-total:	214,272			37,622
Other Plans:				
Center Operations Plan	90	Annually	30.00	2,700
Maintenance	118	Annually	5.00	590
C/M Welfare	118	Annually	2.00	236
Annual VST	118	Annually	24.00	2,832
Annual Staff Training	118	Annually	1.00	118
Energy Conservation	118	Annually	5.00	590
Outreach	118	Annually	2.00	236
Sub-total:	798			7,302
Grand Total:	232,036			62,162

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/ maintaining systems or purchasing services): $0.

Description: This collection of information encompasses ETA's Standard Request for Proposal for the operation of a Job Corps Center completed by prospective contractors for competitive procurement and Federal paperwork requirements for contract operators of Job Corps centers. Job Corps is authorized by Title I, Subtitle C, of the Workforce Investment

Act of 1998. Implementing rules for the Job Corps are found at 20 CFR part 670.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–16297 Filed 6–26–03; 8:45 am]

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 are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal Statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

None

Volume IV

None

Volume V

None

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determination 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 determination 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 U.S. 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 six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 17th day of June, 2003.

Carl Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 03–15946 Filed 6–26–03; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term AFR Notice appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. Contact Barbara Barron at 202–693–9447.

Dated at Arlington, Virginia this 19th day of June 2003.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M–2001–027–C.
FR Notice: 66 FR 30232.
Petitioner: Eighty-four Mining Company.
Regulation Affected: 30 CFR 75.312(c).
Summary of Findings: Petitioner's proposal is to test automatic closing doors and the automatic fan signal devices at least every 31 days without shutting down the fan and without removing miners from the mine, to eliminate the hazards associated with shutting down the fan. This is considered an acceptable alternative method for the Mine 84. MSHA grants the petition for modification for tests of (1) the automatic fan stoppage signal device; and (2) the automatic closing air flow reversal prevention doors to be performed without shutting down the mine fan without removing the miners from the mine at the Mine 84 with conditions.

Docket No.: M–2001–061–C.
FR Notice: 66 FR 34466.
Petitioner: Cumberland River Coal Company.
Regulation Affected: 75.364(b)(2) & (4).
Summary of Findings: Petitioner's proposal is to establish two monitoring stations to evaluate the air entering and leaving the area of the return air course where the roof is deteriorating. The petitioner will have a certified person examine the monitoring stations on a weekly basis and record the date, his/her initials, time of examination, and the quantity and quality of air in a book or on a date board maintained on the surface of the mine and made accessible to all interested parties. This is considered an acceptable alternative method for the Band Mill Mine. MSHA grants the petition for modification for the examination of approximately 600 feet of unsafe-to-travel air course in the 2 East Submains which ventilates the 1-Left Panel off of 2 East Submain mine seals at the Band Mill Mine with conditions.

Docket No.: M–2001–075–C.
FR Notice: 66 FR 41891.
Petitioner: Rockhouse Creek Development Corporation.
Regulation Affected: 30 CFR 75.1103–4(a).
Summary of Findings: Petitioner's proposal is to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries. This is considered an acceptable alternative method for the No. 1 Deep Mine. MSHA grants the petition for modification for the use of a carbon monoxide monitoring system that identifies the location of sensors in lieu of identifying belt flights at the No. 1 Deep Mine with conditions.

Docket No.: M–2001–103–C.
FR Notice: 66 FR 64993.
Petitioner: Consol Pennsylvania Coal Company.
Regulation Affected: 30 CFR 75.312(c) and (d).
Summary of Findings: Petitioner's proposal is to test automatic closing doors and the automatic fan signal devices at least every 31 days without shutting down the fan and without removing miners from the mine, to eliminate the hazards associated with shutting down the fan. This is considered an acceptable alternative method for the Enlow Fork Mine. MSHA grants the petition for modification for tests of (1) the automatic fan stoppage signal device; and (2) the automatic closing air flow reversal prevention doors to be performed without shutting down the mine fan without removing the miners from the mine at the Enlow Fork Mine with conditions.

Docket No.: M–2001–106–C.
FR Notice: 67 FR 1368.
Petitioner: Aracoma Coal Company.
Regulation Affected: 30 CFR 75.900.
Summary of Findings: Petitioner's proposal is to use a properly rated vacuum contactor for under-voltage circuit protection and phase circuit protection. The petitioner proposes to also use a neutral grounding resister not more than 15 amperes for 480-volt circuit and/or over-current circuit protection, and conduct monthly examinations on each circuit for proper operation of the contactor and actuated under-voltage and grounded phase trip devices. This is considered an acceptable alternative method for the Aracoma Alma Mine No. 1. MSHA grants the petition for modification to allow the use of contactors to provide under-voltage, grounded phase, and monitor the grounding conductors for low and medium-voltage power circuits serving three-phase alternating current equipment located at the Aracoma Alma Mine with conditions.

Docket No.: M–2001–113–C.
FR Notice: 67 FR 07551.
Petitioner: Centralia Mining.
Regulation Affected: 30 CFR 49.2(b).
Summary of Findings: Petitioner's proposal is to permit the reduction of two mine rescue teams with five members and one alternate each, to two mine rescue teams or three members with one alternate who serves both teams at its Skidmore Slope Mine. This is considered an acceptable alternative method for use at the Skidmore Slope Mine. MSHA grants the petition for modification for the Skidmore Slope Mine to allow each of the two mine rescue teams to include three members with one alternate who serves both

teams. All mine rescue team members and the alternate shall be fully qualified, trained, and equipped for providing emergency mine rescue service in anthracite mines.

Docket No.: M–2001–123–C.
FR Notice: 67 FR 6754.
Petitioner: Warrior Coal, LLC.
Regulation Affected: 30 CFR 75.1103–4(a).
Summary of Findings: Petitioner's proposal is to install a carbon monoxide detection system that identifies the location of sensors in lieu of identifying belt flights. This is considered an acceptable alternative method for the Cardinal Mine. MSHA grants the petition for modification for the Cardinal Mine to allow the location of a CO sensor signaling an alert or alarm to identify the belt flight on which a fire is detected with conditions.

Docket No.: M–2001–125–C.
FR Notice: 67 FR 6755.
Petitioner: Oxbow Mining, LLC.
Regulation Affected: 30 CFR 75.701.
Summary of Findings: Petitioner's proposal is to use a 480-volt, wye connected, 260 KW portable diesel generator for utility power and to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. This is considered an acceptable alternative method for the Elk Creek Mine. MSHA grants the petition for modification for use of the 480-volt, three-phase, 320KW/400KVA diesel powered generator (DPG) set supplying power to a three-phase transformer, and three-phase 480-volt, and 995-volt power circuits Elk Creek Mine with conditions.

Docket No.: M–2001–126–C.
FR Notice: 67 FR 6755.
Petitioner: Oxbow Mining, LLC.
Regulation Affected: 30 CFR 75.901(a).
Summary of Findings: Petitioner's proposal is a 480-volt, wye connected, 260 KW portable diesel generator for utility power and to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. This is considered an acceptable alternative method for the Elk Creek Mine. MSHA grants the petition for modification for use of the 480-volt, three-phase, 260 KW 300KVA diesel powered generator set supplying power to a three-phase transformer, and three-phase 480-volt, and 995-volt power circuits at the Elk Creek Mine with conditions.

Docket No.: M–2002–013–C.
FR Notice: 67 FR 13197.
Petitioner: Snyder Coal Company.
Regulation Affected: 30 CFR 75.1100–2(a).
Summary of Findings: Petitioner's proposal is to use portable fire extinguishers where rock dust, water cars, and other water storage equipped with three (3) ten quart pails is not practical. The petitioner proposes to use two (2) fire extinquishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face for equivalent fire protection at the N & L Slope Mine. This is considered an acceptable alternative method for the N & L Slope Mine. MSHA grants the petition for modification for the use of firefighting equipment in the working section at the N & L Slope Mine with conditions.

Docket No.: M–2002–015–C.
FR Notice: 67 FR 14977.
Petitioner: Peabody Coal Company.
Regulation Affected: 30 CFR 75.364(b)(2).
Summary of Findings: Petitioner's proposal is to continuously monitor methane and oxygen concentrations at evaluation points closest to the mine fan and XC–91 using a Conspec Mine Monitoring system that would be manned around the clock and set up to alarm at oxygen levels less than 19.5% and methane levels greater than 1.0%. This is considered an acceptable alternative method for the Camp #11 Mine. MSHA grants the petition for modification for the use of continuous monitoring using intrinsically safe sensors installed as part of the mine's Atmospheric Monitoring System and weekly evaluation of air entering and leaving approximately 1600 feet of 1st Main South West return air course which ventilates the accessible 2nd Panel Southeast Mine seals at the Camp #11 Mine with conditions.

Docket No.: M–2002–016–C.
FR Notice: 67 FR 14977.
Petitioner: Blue Diamond Coal Company.
Regulation Affected: 30 CFR 77.214(a).
Summary of Findings: Petitioner's proposal is to place Coarse Refuse Fill #1 over abandoned mine openings located in the Leatherwood (5A) seam. Coarse refuse at the Beech Fork Refuse Fill, formerly the Beech Fork Slurry Impoundment, will cover the sealed drift mine openings and auger holes into the Leatherwood coal seam. The seam dips west toward the present Stonecoal Branch Slurry Impoundment. This is considered an acceptable alternative method for the #76 Preparation Plant. MSHA grants the petition for modification for the #76 Preparation Plant with conditions.

Docket No.: M–2002–017–C.
FR Notice: 67 FR 14977.
Petitioner: Knox Creek Coal Corporation.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake spacing between air courses. This is considered an acceptable alternative method for the Tiller No. 1 Mine. MSHA grants the petition for modification to allow air coursed through conveyor belt haulage entries to be used to ventilate active working places at the Tiller No. 1 Mine with conditions.

Docket No.: M–2002–018–C.
FR Notice: 67 FR 14977.
Petitioner: Paramont Coal Company Virginia, LLC (Formerly Paramont Coal Corporation, Commonwealth #5 Mine).
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use belt air to ventilate active working places by installing a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as an intake air course. This is considered an acceptable alternative method for the Deep Mine #26. MSHA grants the petition for modification to allow air coursed through conveyor belt haulage entries to be used to ventilate active working places at the Deep Mine #26 with conditions.

Docket No.: M–2002–020–C.
FR Notice: 67 FR 14977.
Petitioner: Alfred Brown Coal Company.
Regulation Affected: 30 CFR 75.1400(c).
Summary of Findings: Petitioner's proposal is to use a slope conveyance (gunboat) with increased rope strength and secondary safety rope connections instead of safety catches or other no less effective devices to transport persons. This is considered an acceptable alternative method for the 7 Ft Slope Mine. MSHA grants the petition for modification for the hoist conveyance (gunboat) without safety catches at the 7 Ft Slope Mine with conditions.

Docket No.: M–2002–023–C.
FR Notice: 67 FR 14978.
Petitioner: Alfred Brown Coal Company.
Regulation Affected: 30 CFR 75.360(b)(5).
Summary of Findings: Petitioner's proposal is to conduct a visual examination of each seal from the slope gunboat for physical damage during the pre-shift examination after an air quantity reading is taken in by the intake portal. The examination will be conducted before every shift. A certified

person designated by the operator will take air readings at the top of the slope and in the gangway just off the slope. The air readings will be taken to determine the quality of air entering the mine and working section by testing for methane and oxygen deficiency, to determine the volume of air entering the working section, and to determine if the air is moving in the proper direction. This is considered an acceptable alternative method for the 7 Ft Slope Mine. MSHA grants the petition for modification for examinations of seals (conducted from the gunboat) in the intake air haulage slope of the 7 Ft Slope Mine with conditions.

Docket No.: M–2002–024–C.
FR Notice: 67 FR 14978.
Petitioner: Alfred Brown Coal Company.
Regulation Affected: 30 CFR 75.1200(d), (h), and (i).
Summary of Findings: Petitioner's proposal is to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined. This is considered an acceptable alternative method for the 7 Ft Slope Mine. MSHA grants the petition for modification for the 7 Ft Slope Mine with conditions.

Docket No.: M–2002–036–C.
FR Notice: 67 FR 19286.
Petitioner: New Century Mining, Inc.
Regulation Affected: 30 CFR 77.214(a).
Summary of Findings: Petitioner's proposal is to construct a coarse refuse disposal area (Coarse Refuse Disposal Area No. 5) within the face-up area of the abandoned Kodiak Mine No. 1. This is considered an acceptable alternative method for the Pineywoods Preparation Plant. MSHA grants the petition for modification for the Pineywoods Preparation Plant (I.D. No. 01–02976) with conditions.

Docket No.: M–2002–039–C.
FR Notice: 67 FR 31835.
Petitioner: Consol of Pennsylvania Coal Company.
Regulation Affected: 30 CFR 75.503 and 30 CFR 18.35.
Summary of Findings: Petitioner's proposal is to increase the maximum length of trailing cables for continuous mining machines to 950 feet. This is considered an acceptable alternative method for the Enlow Fork Mine. MSHA grants the petition for modification to apply only to trailing cables that supply 995-volt, three-phase, alternating current to continuous mining machine(s) with conditions.

Docket No.: M–2002–045–C.
FR Notice: 67 FR 39746.
Petitioner: Consolidation Coal Company.
Regulation Affected: 30 CFR 75.364(b)(2).
Summary of Findings: Petitioner's proposal is to establish evaluation check points in an area of the return air course where roof conditions are deteriorating and expose persons to hazardous conditions. This is considered an acceptable alternative method for the Blacksville No. 2 Mine. MSHA grants the petition for modification for the unsafe-to-travel segment (approximately 2,000 feet) of the multiple common return entries for 2 West Panel approaching Wana Air Shaft at the Blacksville No. 2 Mine with conditions.

Docket No.: M–2002–050–C.
FR Notice: 67 FR 45553.
Petitioner: Bubber Coal Company, Inc.
Regulation Affected: 30 CFR 75.503 and 30 CFR 18.41(f).
Summary of Findings: Petitioner's proposal is to permanently install spring-loaded locking devices instead of using padlocks to prevent unintentional loosening of battery plugs from battery receptacles and to eliminate the hazards associated with difficult removal of padlocks during emergency situations. This is considered an acceptable alternative method for the No. 1 Mine. MSHA grants the petition for modification for the use of permanently installed spring-loaded locking devices in lieu of padlocks on battery plugs at the No. 1 Mine with conditions.

Docket No.: M–2002–052–C.
FR Notice: 67 FR 49966.
Petitioner: Titan Mining, Inc.
Regulation Affected: 30 CFR 75.1103–4(a).
Summary of Findings: Petitioner's proposal is to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries to identify a sensor location in lieu of identifying each belt flight. This is considered an acceptable alternative method for the Laurel Fork Deep Mine. MSHA grants the petition for modification for use at the Laurel Fork Mine with conditions.

Docket No.: M–2002–057–C.
FR Notice: 67 FR 49966.
Petitioner: Highland Mining Company.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use air coursed through belt haulage entries to ventilate active working places. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system all belt entries used to course intake air to a working place. This is considered an acceptable alternative method for the Highland 11 Mine. MSHA grants the petition for modification for use at the Highland 11 Mine with conditions.

Docket No.: M–2002–059–C.
FR Notice: 67 FR 49967.
Petitioner: Consol of Kentucky, Inc.
Regulation Affected: 30 CFR 75.1101–8.
Summary of Findings: Petitioner's proposal is to use a single overhead pipe system with ½-inch orifice automatic sprinklers located on 10-foot centers, to cover 50 feet of fire-resistant belt or 150 feet of non-fire resistant belt, with actuation temperatures between 200 and 230 degrees Farenheit, and with water pressure equal to or greater than 10 psi. This is considered an acceptable alternative method for the Beaver Gap E–3 Mine. MSHA grants the petition for modification for use at the Beaver Gap E–3 Mine with conditions.

Docket No.: M–2002–069–C.
FR Notice: 67 FR 54676.
Petitioner: Oxbow Mining, LLC.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use air coursed through the conveyor belt haulage entries to ventilate working places by installing a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. This is considered an acceptable alternative method for the Elk Creek Mine. MSHA grants the petition for modification for the use at the Elk Creek Mine with conditions.

Docket No.: M–2002–071–C.
FR Notice: 67 FR 59317.
Petitioner: F–M Coal Corporation.
Regulation Affected: 30 CFR 75.380(f)(4)(i).
Summary of Findings: Petitioner's proposal is to use two five-pound and one ten-pound portable chemical fire extinguisher on each Mescher tractor at the Mine No. 4. The tractor operator will inspect each fire extinguisher on a daily basis prior to entering the escapeway and keep a record at the mine of all inspections. The petitioner proposes to maintain a sufficient number of fire extinguishers at the mine in case a defective fire extinguisher is detected. This is considered an acceptable alternative method for the Mine No. 4. MSHA grants the petition for modification for the use Mine No. 4 with conditions.

Docket No.: M–2002–081–C.
FR Notice: 67 FR 6316.

Petitioner: Remington Coal Company, Inc.

Regulation Affected: 30 CFR 75.1700.

Summary of Findings: Petitioner's proposal is to plug and mine through oil and gas wells. This is considered an acceptable alternative method for the Stockburg No. 1 Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to Section 75.1700) plugged oil or gas wells penetrating the Stockton and Coalburg Coal Seams and other minable coal seams using continuous miners, conventional mining, or longwall mining methods at the Stockburg No. 1 Mine with conditions.

Docket No.: M–2002–085–C.

FR Notice: 67 FR 66168.

Petitioner: KenAmerican Resources, Inc.

Regulation Affected: 30 CFR 75.380(g).

Summary of Findings: Petitioner's proposal is to request a variance from the existing standard so that the primary escapeway for the #9 Slope would not be required to be separated from the belt entries until the initial development stage is completed, that is, when connection is made to the airshaft. This is considered an acceptable alternative method for the Brier Creek Mine. MSHA grants the petition for modification for the slope, during initial development, until development can progress to the airshaft and make connection at the Brier Creek Mine with conditions.

Docket No.: M–2002–087–C.

FR Notice: 67 FR 66169.

Petitioner: Highland Coal Company (Formerly Peabody Coal Company).

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is to amend its previously granted petition for modification, docket number M–2002–040–C, to revise 30 CFR 75.1002 paragraph 14(b) of same section, to allow routine use of cable crossovers, and to revise paragraph 43(b), to allow a temporary transformer that is not mounted to the mining machine. The petitioner's proposed alternative method is essentially the same as the special terms and conditions previously granted under the Proposed Decision and Order (PDO) of docket number M–2001–040–C. The significant difference in the proposed alternative method address the method of powering the tram motors of the miner during equipment moves, and proposed wording changes and additions to clarify the intent of Item No. 14. This is considered an acceptable alternative method for the Highland Mine. MSHA grants the petition for modification for the 2400-volt high-voltage continuous miner(s) at the Highland Mine with conditions.

Docket No.: M–2002–089–C.

FR Notice: 67 FR 66169.

Petitioner: Europa Coal Company, Inc.

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is use a Joy 12CM27 continuous miner which operates at 2,400 volts. This is considered an acceptable alternative method for the Dry Branch Coalburg Mine. MSHA grants the petition for modification to use 2,400-volt high-voltage continuous miner at the Dry Branch Coalburg Mine with conditions.

Docket No.: M–2002–100–C .

FR Notice: 67 FR 7198.

Petitioner: Highland Mining Company.

Regulation Affected: 30 CFR 75.503 and 30 CFR 18.41(f) .

Summary of Findings: Petitioner's proposal is to use spring-loaded locking device on battery plug connectors on mobile battery-powered equipment to prevent the threaded ring securing the battery plugs to the battery receptacles from unintentional loosening, and attach locking device brackets to the battery receptacles to prevent the loss of the brackets. The petitioner proposes to install a warning tag on all battery plug connectors that states ''Do Not Disengage Under Load,'' and provide instructions on the safe practices and provisions to all persons who operate or maintain the battery-powered machines. The petitioner will revise its training plan to specify initial and refresher training for use of the spring-loaded devices. This is considered an acceptable alternative method for the Highland #11 Mine. MSHA grants the petition for modification for the use of permanently installed spring-loaded locking devices in lieu of padlocks on battery plug and receptacle-type connectors for mobile battery-powered equipment at the Highland #11 Mine with conditions.

Docket No.: M–2002–101–C.

FR Notice: 67 FR 71989 .

Petitioner: Oxbow Mining, LLC.

Regulation Affected: 30 CFR 75.1909(b)(6).

Summary of Findings: Petitioner's proposal is to operate its diesel grader at a maximum speed of between 10 and 12 miles per hour or less, train all grader operators to lower the moldboard (grader Blade) for additional stopping capability in emergencies, and to recognize appropriate levels of speed for different road conditions and slopes. This is considered an acceptable alternative method for the Elk Creek Mine. MSHA grants the petition for modification for the Elk Creek Mine with conditions. The Proposed decision and Order is limited in application to the Getman RDG–1504C, diesel graders (Roadbuilder), which has 6 wheels.

Docket No.: M–2002–108–C .

FR Notice: 67 FR 78822.

Petitioner: A, B & J Coal Company.

Regulation Affected: 30 CFR 75.503 and 30 CFR 18.41(f).

Summary of Findings: Petitioner's proposal is to use a permanently installed spring-loaded locking device on battery plug connectors on mobile battery-powered equipment in lieu of padlocks. The spring-loaded locking device would prevent unintentional loosening of the battery plugs from battery receptacles and eliminate the hazards associated with difficult removal of padlocks during emergency situations. This is considered an acceptable alternative method for the Mine #3C. MSHA grants the petition for modification for the use of permanently installed spring-loaded locking devices in lieu of padlocks on battery plug and receptacle-type connectors for mobile battery-powered equipment Mine #3C with conditions.

Docket No.: M–2002–118–C.

FR Notice: 68 FR 1485.

Petitioner: Canyon Fuel Company, LLC.

Regulation Affected: 30 CFR 75.507.

Summary of Findings: Petitioner's proposal is to install and use a non-permissible, 4,160-volt AC power submersible pump in a cased borehole which penetrates an abandoned and sealed portion of the Skyline Mine No. 3, Level 2 workings. This is considered an acceptable alternative method for the Skyline Mine No. 3. MSHA grants the petition for modification for the use of 4,160-volt, three-phase, alternating current submersible pumps installed in boreholes in the Skyline Mine No. 3 with conditions.

Docket No.: M–2003–004–C.

FR Notice: 68 FR 5664 .

Petitioner: Remington Coal Company, Inc.

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is to use a 2,400 volt Joy 14CM27 continuous mining machine in lieu of the 2,400 volt Joy 12CM27 continuous mining machine currently being used at the Stockburg No. 1 Mine. This is considered an acceptable alternative method for the Stockburg No. 1 Mine. MSHA grants the petition for modification for the use of the 2,400-volt high-voltage continuous miner(s) at

the Stockburg No. 1 Mine with conditions.

Docket No.: M–2001–004–M.

FR Notice: 66 FR 52156.

Petitioner: Kennecott Utah Copper Corporation.

Regulation Affected: 30 CFR 56.14109.

Summary of Findings: Petitioner's proposal is to use emergency stop devices in the form of a hand-held portable radio at portions of the Bingham Canyon Mine's Mine-Concentrator Conveyor where pull-cords or railings are not located. When the radio is activated through a single push-button at any position along the beltway, the conveyor motor will be deactivated and the belt will stop and miners will be prevented from contacting moving conveyor belts and receiving serious injuries. This is considered an acceptable alternative method for the Bingham Canyon Mine. MSHA grants the petition for modification for the Bingham Canyon Mine with conditions.

Docket No.: M–2002–001–M.

FR Notice: 67 FR 11718.

Petitioner: OCI Wyoming, LP.

Regulation Affected: 30 CFR 57.22305.

Summary of Findings: Petitioner's proposal is to use a 12 to 18 volt battery powered cordless drill manufactured by Black & Decker, DeWalt, Makita, Milwaukee or Hilti, or use similar battery powered drills for an indefinite period of time, in or beyond the last open crosscut. This is considered an acceptable alternative method for the Big Island Mine. MSHA grants the petition for modification for the Big Island Mine with conditions.

[FR Doc. 03–16248 Filed 6–26–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Nowacki Coal Company

[Docket No. M–2003–044–C]

Nowacki Coal Company, 615 Old 209 Road, Tamaqua, Pennsylvania 18252–9764 has filed a petition to modify the application of 30 CFR 75.360 (Preshift examination at fixed intervals) to its Nowacki Coal Company Slope (MSHA I.D. No. 36–07592) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the existing standard to permit an alternative method of examination and evaluation of seals. The alternative method would include a visual examination of each seal for physical damage from the slope gunboat during the pre-shift examination after an air quantity reading is taken just inby the intake portal. The petitioner proposes to instruct the examiner to take an additional reading and gas test for methane, carbon dioxide, and oxygen deficiency at intake air split locations just off the slope in the gangway portion of the working section. A record of all readings, gas test results, and his/her initials, date, and time and location of examinations will be available to anyone prior to entering the mine. The petitioner states that regardless of the conditions at the section evaluation point, the entire length of the slope would be traveled and physically examined on a monthly basis. A record of the dates, time, and the initials of the person conducting the examinations will be made available on the surface. The petitioner also states that any hazards would be corrected prior to transporting personnel in the slope. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Nowacki Coal Company

[Docket No. M–2003–045–C]

Nowacki Coal Company, 615 Old 209 Road, Tamaqua, Pennsylvania 18252–9764 has filed a petition to modify the application of 30 CFR 75.364(b)(1), (4) and (5) (Weekly examination) to its Nowacki Coal Company Slope (MSHA I.D. No. 36–07592) located in Schuylkill County, Pennsylvania. The petitioner proposes to: (i) Preshift examine the intake haulage slope and primary escapeway areas from the gunboat/slope car with an alternative air quality evaluation at the section's intake gangway level; (ii) travel and thoroughly examine these areas for hazardous conditions once a month; and (iii) have the examiner place the dates, times, and his/her initials at appropriate locations and maintain records of the examination on the surface. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Nowacki Coal Company

[Docket No. M–2003–046–C]

Nowacki Coal Company, 615 Old 209 Road, Tamaqua, Pennsylvania 18252–9764 has filed a petition to modify the application of 30 CFR 75.1002–1 now 75.1002 (Installation of electric equipment and conductors; permissibility) to its (MSHA I.D. No. 36–07592) located in Schuylkill County, Pennsylvania. The petitioner requests a modification in the application of the existing standard to permit the use of non-permissible electric equipment within 150 feet of the pillar line. The petitioner states that the non-permissible equipment would include drags and battery locomotives due in part to the method of mining used in pitching anthracite mines and the alternative evaluation of the mine air quality for methane on an hourly basis during operation. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to *comments@msha.gov*, or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before July 28, 2003. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 19th day of June 2003.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 03–16249 Filed 6–26–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. GE2003–1]

Draft Ergonomics for the Prevention of Musculoskeletal Disorders: Guidelines for Retail Grocery Stores

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

ACTION: Extension of comment period, announcement of public meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is extending the comment period for its draft Ergonomics for the Prevention of Musculoskeletal Disorders: Guidelines for Retail Grocery Stores (draft

guidelines), an additional forty-five (45) days, until August 22, 2003. OSHA is also announcing that a public stakeholder meeting will be held on September 18, 2003.

DATES: *Written Comments:* Comments must be submitted by the following dates:

Hard Copy: You must submit your comments (postmarked or sent) by August 22, 2003.

Facsimile and electronic transmission: You must submit your comments by August 22, 2003. (Please *see* the **SUPPLEMENTARY INFORMATION** below for additional information on submitting comments.)

Stakeholder meeting: OSHA will hold a half-day stakeholder meeting to discuss the draft guidelines. The meeting will be held on Thursday, September 18, 2003 from 8:30 a.m. to 12:30 p.m. in Washington, DC. Interested persons must submit their intention to participate in the stakeholder meeting through express delivery, hand delivery, messenger service, fax or electronic means by August 22, 2003.

ADDRESSES:

I. Submission of Comments and Intention To Participate in Stakeholder Meeting

Regular mail, express delivery, hand delivery, and messenger service: You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. GE2003–1, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). The OSHA Docket Office and the Department of Labor's hours of operation are 8:15 a.m. to 4:45 p.m., EST. You need only submit one copy of your intent to participate in the stateholder meeting by express delivery, hand delivery, or messenger service to the above address.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number of this document, Docket No. GE2003–1, in your comments. You may also fax your intention to participate in the stakeholder meeting.

Electronic: You may submit comments and your intention to participate in the stakeholder meeting through the Internet at *http://comments.osha.gov/.* (Please *see* **SUPPLEMENTARY INFORMATION** below for additional information on submitting comments.)

II. Obtaining Copies of the Draft Guidelines

You can download the draft guidelines for the retail grocery industry from OSHA's Web page at *http://www.osha.gov.* A printed copy of the draft guidelines is available from the OSHA Office of Publications, Room N–3101, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, or by telephone at (800) 321–OSHA (6742). You may fax your request for a copy of the draft guidelines to (202) 693–2498.

III. Stakeholder Meeting

The stakeholder meeting will be held at the Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001, Telephone (202) 628–2100.

FOR FURTHER INFORMATION CONTACT: Steven F. Witt, OSHA Directorate of Standards and Guidance, Room N–3718, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–1950.

SUPPLEMENTARY INFORMATION:

I. Extension of Comment Period

OSHA announced publication of its draft Ergonomics for the Prevention of Musculoskeletal Disorders: Guidelines for Retail Grocery Stores in the **Federal Register** on May 9, 2003 (68 FR 25068). In that notice, the Agency provided the public with sixty (60) days to submit written comments, until July 8, 2003. Several interested persons requested that OSHA provide additional time to submit written comments on the draft guidelines. In light of the interest expressed by the public, OSHA is providing an additional forty-five (45) days for comments. Accordingly, written comments must now be submitted by August 22, 2003.

II. Submission of Comments and Internet Access to Comments

You may submit comments in response to this document by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA Web page. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic submission, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related procedures the use of regular mail may cause a significant delay in the receipt of comments. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

All comments and submissions will be available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions will be posted on OSHA's Web page at *http://www.osha.gov.* OSHA cautions you about submitting personal information such as social security numbers, date of birth, etc. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about materials not available through the OSHA Webpage and for assistance in using the internet to locate docket submissions.

III. Stakeholder Meeting

Following the close of the comment period, OSHA will hold a stakeholder meeting in Washington, DC, at the Washington Court Hotel on Thursday, September 18, 2003 from 8:30 a.m. to 12:30 p.m. Interested parties must submit their intention to participate in the stakeholder meeting by August 22, 2003 to allow the Agency to make appropriate plans for the meeting.

This notice was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health. It is issued under sections 4 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653,657).

Issued at Washington, DC this 23rd day of June, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–16277 Filed 6–26–03; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–074)]

NASA Space Science Advisory Committee, Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration announces a meeting of the NASA Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee (SSES).

DATES: Wednesday, July 16, 2003, 8:30 a.m. to 5 p.m.; Thursday, July 17, 2003,

8:30 a.m. to 5 p.m.; and Friday, July 18, 2003, 8:30 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, Room 3H46, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jay Bergstralh, Code SE, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0313.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Status of Solar System Exploration
—Status of Mars Exploration Program
—Status of Project Prometheus
—Cost Overruns on Cost-Capped Missions
—International Collaborations
—GPRA Evaluations

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/greencard information (number, type, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees can provide identifying information in advance by contacting Dr. Jay Bergstralh via email at *Jay.T.Bergstralh@nasa.gov* or by telephone at 202/358–0313 or Kay Butzke via email at *glenda.K.butzke@nasa.gov* or by telephone at 202/358–0730. Attendees will be escorted at all times. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–16312 Filed 6–26–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–077]

NASA Advisory Council, Earth Systems Science and Applications Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA)

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council (NAC), Earth Systems Science and Applications Advisory Committee (ESSAAC).

DATES: Wednesday, July 16, 2003, 8:30 a.m. to 5:30 p.m.; and Thursday, July 17, 2003, 8:30 a.m. to 5:30 p.m.

ADDRESSES: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Williams, Code Y, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0241.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:

—Chair's Welcome/Opening remarks
—NASA Administrator or Deputy Administrator Welcoming Remarks
—Earth Science Enterprise (ESE) Status
—Interagency context
—Review of ESE Strategy
—Overview of Draft ESE Strategy, review, process and next steps
—Discussion
Science: modeling, collaborations
Applications
Program and Technology
Data & Information Systems: advances enabling science collaboration
Interagency partnerships
Committee Deliberations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of key participants. NASA was unable to arrange a meeting room at a NASA facility for these dates. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–16351 Filed 6–26–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–076]

Aviation Safety Reporting System Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration announces a forthcoming meeting of the Aviation Safety Reporting System Subcommittee (ASRSS).

DATES: Tuesday, July 15, 2003, 9 a.m. to 5 p.m., and Wednesday, July 16, 2003, 9 a.m. to 2 p.m.

ADDRESSES: National Business Aviation Association, 1200 18th Street, NW., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Connell, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/960–6059.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

- Aviation Safety Reporting System
- Program Status
- Strategic Planning

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–16350 Filed 6–26–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–075]

NASA Earth Science Information Systems and Services Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration announces a meeting of the Earth Science Information Systems and Services Subcommittee.

DATES: Wednesday, July 9, 2003, 8:30 a.m. to 5:45 p.m.; and Thursday, July 10, 2003, 8:30 a.m. to 4 p.m.

ADDRESSES: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Maiden, Code YF, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1078.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Introduction, Opening Comments
- Welcome, Charge to Earth Science Information Systems and Services Subcommittee (ESISS)

- The New Face of Earth Science Enterprise (ESE) Data and Information Systems
- Overview: From Earth Observation System Data and Information System(EOSDIS) to the next Decade
- Overview: EOSDIS Current Operations, EOSDIS Maintenance and Development (EMD) Contract Award Status
- Demonstration: The EOSDIS Core System (ECS) Ordering system
- Demonstration: EOSDIS update: the EOS ClearingHouse (ECHO) system
- Earth Science Information Partners (ESIPs) Federation Overview
- Demonstration: Example of Federation capability (''Distributed Oceanographic Data System (DODS) live''?)
- Overview: Science Investigator Processing System (SIPS) processing: An assessment
- Moderate-Resolution Imaging Spectroradiometer (MODIS) Data Analysis Processing System (MODAPS) (MODIS SIPS) presentation: Lessons learned
- What is Strategic Evolution of ESE Data Systems (SEEDS)?
- Overview: SEEDS strategy
- SEEDS prototype: Precipitation Processing System (PPS)
- Demonstration: PPS Live demonstration
- Presentation: National Polar-orbiting Operational Environmental Satellite System (NPOESS)
- Presentation: Climate Large-Array Systems and Services (CLASS)
- Overview: Earth Science Technology Office (ESTO)—Selected Advanced Information Systems Technology (AIST) Projects
- Demonstration: A maturing AIST technology project
- Discussion: Major questions and issues

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–16349 Filed 6–26–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 11, 2003. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–3120. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Defense, Office of the Secretary of Defense (N1–330–03–1, 25 items, 15 temporary items). Records of the Defense Manpower Data Center that are associated with electronic systems relating to such matters as outreach referral, joint duty assignment management, Federal creditor agency debt collection, and reenlistment eligibility. Included are inputs,

electronic master files, system documentation, and outputs along with U.S. Postal Service records used for computer matching. Also included are inputs and outputs of databases for which the master file and system documentation are proposed for permanent retention. Records proposed for permanent retention include master files, and the related system documentation, pertaining to employment and pay matters, noncombatant evacuation and repatriation, criminal and non-criminal incident reports, personnel surveys and census data, and personnel eligibility for benefits. These records were previously scheduled when the Defense Manpower Data Center was part of the Defense Logistics Agency.

2. Department of Energy, Bonneville Power Administration (N1–305–03–2, 40 items, 40 temporary items). Administrative records associated with operation of the agency's power transmission system. These records relate to such matters as outages, load drops, control schemes, system restoration, substations, voltage stability, equipment testing, and reliability. Also included are electronic copies of documents created using electronic mail and word processing. This schedule revises retention periods for these records, which were previously approved for disposal.

3. Department of Health and Human Services, Centers for Disease Control and Prevention (N1–442–02–3, 4 items, 4 temporary items). Records relating to grant programs. Included are case files relating to approved grants, program announcement records addressing such matters as eligibility requirements and scoring criteria, and electronic copies of documents created using electronic mail and word processing. This schedule reduces the retention period for approved grants, which were previously approved for disposal.

4. Department of Education, Office of Inspector General (N1–441–02–1, 17 items, 15 temporary items). Files relating to audits, investigative cases, complaints, inspections, and suspensions and debarments as well as working papers, electronic tracking indexes, and electronic copies of records created using word processing and electronic mail. Proposed for permanent retention are recordkeeping copies of policy files and semiannual reports to Congress. Significant files will be brought to the attention of the National Archives and Records Administration for appraisal on a case-by-case basis.

5. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–03–9, 4 items, 4 temporary items). Case files detailing the history of regulations, rule making, and policy development. Files include final rules and regulations, proposed regulations and policies, drafts and comments maintained in offices providing input to the originating office, and electronic copies of records created using word processing and electronic mail.

6. Department of Justice, Drug Enforcement Administration (N1–170–03–5, 6 items, 6 temporary items). System inputs, outputs, master files, and documentation associated with the Request for Information Technology Services System, which is used to track agency software project requests. Also included are electronic copies of records created using electronic mail and word processing.

7. Department of Labor, Bureau of Labor Statistics (N1–257–03–1, 8 items, 7 temporary items). Files of the Office of Occupational Safety and Health Statistics relating to special one-time surveys. Included are such records as questionnaires, intermediate reports, copies of publications, electronic data files of survey responses, survey administrative records, and electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of survey publications.

8. Department of the Treasury, Office of Legislative Affairs (N1–56–03–6, 9 items, 5 temporary items). Subject files, correspondence, and working papers. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of program material documenting policy decisions, Congressional correspondence of a substantive nature, and legislative work product files containing significant analyses and recommendations.

9. Department of the Treasury, United States Mint (N1–104–03–1, 10 items, 10 temporary items). Records of the U.S. Mint Police, including training records, firearm inventories, and routine building surveillance video tapes. Also included are electronic copies of documents created using electronic mail and word processing.

10. Department of the Treasury, Financial Management Service (N1–425–03–2, 22 items, 22 temporary items). Inputs, outputs, system documentation, master files, and other records associated with the Cash Track System. This system contains information regarding Government expenditures and receipts and assists the agency in maintaining the appropriate level of funds in Government accounts. Also included are electronic copies or records created using electronic mail and word processing.

11. National Archives and Records Administration, Office of Human Resources and Information (N1–64–03–5, 8 items, 8 temporary items). Records relating to planning, managing, and carrying out the agency's internal records management program, including electronic copies of records created using electronic mail and word processing.

12. National Archives and Records Administration, Office of Regional Records Services (N1–64–03–7, 2 items, 2 temporary items). Records associated with the Case Management and Reporting System, an automated system used to manage customer requests for official military personnel files and other records stored at the National Personnel Records Center in St. Louis, Missouri.

Dated: June 23, 2003.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 03–16293 Filed 6–26–03; 8:45 am]

BILLING CODE 7515–01–U

OFFICE OF NATIONAL DRUG CONTROL POLICY

Meeting of the Advisory Commission on Drug Free Communities

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Drug-Free Communities Act, a meeting of the Advisory Commission on Drug Free Communities will be held on July 22 & 23, 2003 at the Office of National Drug Control Policy in the 5TH Floor Conference Room, 750 17th Street NW., Washington, DC. The meeting will commence at 9 a.m. on Tuesday, July 22, 2003 and adjourn for the evening at 5 p.m. The meeting will reconvene at 8:30 a.m. on Wednesday, July 23, 2003 and adjourn at 3 p.m. The agenda will include: swearing in new Commissioners, Remarks by ONDCP Director John P. Walters, orientation for the members of the Commission, and background on the Drug Free Communities Program and community drug prevention and anti-drug coalitions. There will be an opportunity for public comment from 11 a.m. until 11:30 a.m. on Wednesday, July 23, 2003. Members of the public who wish to

attend the meeting and/or make public comment should contact Stella Price at (202) 395–3617 to arrange building access.

FOR FURTHER INFORMATION CONTACT: Linda V. Priebe, (202) 395–6622.

Dated: June 23, 2003.

Linda V. Priebe,

Assistant General Counsel.

[FR Doc. 03–16263 Filed 6–26–03; 8:45 am]

BILLING CODE 3180–02–P

NATIONAL LABOR RELATIONS BOARD

Proposed Information Collection; Comment Request

AGENCY: National Labor Relations Board.

ACTION: Notice.

SUMMARY: The National Labor Relations Board (NLRB), Office of the General Counsel, in accordance with section 3506(C)(2)(A) of the Paperwork Reduction Act of 1995, plans to request approval for the use of NLRB Form 4560, Supplemental Statement Application for Professional Position in the Office of the General Counsel. Using this form will substantially reduce the number of hours currently expended to review applications received for the positions of attorneys and field examiners in the office of the General Counsel.

Currently, applications are received in various forms, *e.g.,* SF–171, SF–612, and resumes.

As a result, required information is not easily obtained and requested information necessary to the Agency's review may be missing altogether. By providing a standard format, all information necessary to the Agency's review would be addressed and in a consistent format that would facilitate and streamline that review.

Application forms, such as the SF–171 and SF–612, and resumes do not address a very important question that is included on the Supplemental Statement. Specifically, information concerning a candidate that would create an actual or apparent conflict of interest for assignment to a particular office because of a family and/or personal relationship with someone outside the NLRB who regularly does business with that particular NLRB office.

Receiving this information as part of the application package would prevent assignments to offices where these situations may exist.

DATES: Comments should be received on or before August 26, 2003.

ADDRESSES: Written comments and recommendations on the information collection should be sent to the National Labor Relations Board, Library and Administrative Services Branch, 1099 14th Street, NW., Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: Tommie Gregg, Sr., Records Management and Anthony Wonkovich, Human Resources, at address shown above; by telephone at (202) 273–2833, (202) 237–3982; or by facsimile at (202) 273–4286.

SUPPLEMENTARY INFORMATION: Comment is requested 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 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 through the use of automated collection techniques or other forms of information technology.

Dated: June 23, 2003.

By direction of the Board.

Lester A. Heltzer,

Executive Secretary, National Labor Relations Board.

[FR Doc. 03–16303 Filed 6–26–03; 8:45 am]

BILLING CODE 7545–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 68 FR 12107 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Comments regarding these information collections are best assured of having their full effect if received by OMB within 30 days of publication in the **Federal Register**.

ADDRESSES: Written comments regarding: (a) Whether the collection of information is necessary for the proper performance of the functions of NSF, including whether the information will have practical utility; (b) the accuracy of NSF's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling (703) 292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, NSF Reports Clearance Officer at (703) 292–7556 or send e-mail to *splimpto@nsf.gov.*

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of IGERT recipients.

OMB Control No.: 3145–NEW.

The Integrative Graduate Education and Research Traineeship (IGERT) program was initiated in 1997 and now comprises approximately 100 award sites. The IGERT program has been developed to meet the challenges of educating U.S. Ph.D. scientists, engineers, and educators with the interdisciplinary backgrounds, deep knowledge in chosen disciplines, and technical, professional, and personal skills to become in their own careers the leaders and creative agents for change. The program is intended to catalyze a

cultural change in graduate education, for students, faculty, and institutions, by establishing innovative new models for graduate education and training in a fertile environment for collaborative research that transcends traditional disciplinary boundaries. It is also intended to facilitate greater diversity in student participation and preparation, and to contribute to the development of a diverse, globally-engaged science and engineering workforce. As part of this endeavor, IGERT awardees are expected to integrate instruction in ethics and the responsible conduct of research into their training programs. However, no mechanism is currently in place to determine: (1) Whether such instruction occurs once the award is made, and (2) whether such instruction meets its goals. Thus, the NSF would like to survey IGERT recipients to answer the above questions.

Proposed Project

IGERT awardees will be invited, via email correspondence, to access a web-based survey document by a given date. This survey encompasses 22 questions, some with multiple parts, and is designed to assess the presence and relative strengths and weaknesses of any ethics training programs offered as part of the IGERT program at the awardee's institution.

Use of the Information: The results of the survey will be used to update Program Announcements and annual report requirements to reflect NSF's desire to promote the development of ethically trained scientists. Any additional reports developed with the survey results will be distributed to all IGERT awardees.

Estimate of Burden: 60 minutes per respondent, for 100 respondents, totaling 100 hours.

Respondents: Individuals.

Estimated Number of Responses per Report: 1.

Dated: June 24, 2003.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 03–16344 Filed 6–26–03; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by July 28, 2003. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–5411), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specialty Protected Areas.

The applications received are as follows:

1. Applicant: Permit Application No. 2004–006

Eric Chiang, Head, Polar Research Support Section, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Areas

The applicant proposes to conduct recreational and educational visits, by authorized U.S. Antarctic Program (USAP) participants, to the following areas: ASPA #154–Cape Evans, including Scott's Hut; ASPA #158–Cape Adare, including the historic huts; ASPA #156–Cape Royds, including Shackleton's Hut; and ASPA #157–Discovery Hut (Hut Point). McMurdo Station is located on Hut Point, Ross Island, and is in very close proximity to several historic huts, especially Discovery Hut, which sits adjacent to the station. Access to the huts will be by tracked vehicle, helicopter, or on foot as appropriate. All visits will be conducted in accordance with the management plans for the specific sites. In addition, procedures for monitoring numbers of USAP visitors throughout the season will be implemented.

In addition, the applicant proposes entry to ASPA #122 (Arrival Heights), by authorized U.S. Antarctic Program (USAP) participants, for the purpose of monitoring sensitive scientific equipment installed to record signals associated with upper atmospheric programs, and other essential local communications equipment as described in the Management Plan.

Location

ASPA #154—Cape Evans, including Scott's Hut; ASPA #158—Cape Adare, including the historic huts; ASPA #156–Cape Royds, including Shackleton's Hut; ASPA #157—Discovery Hut, Hut Point; and, ASPA #122 Arrival Heights, Ross Island.

Dates: October 1, 2003–September 30, 2008

2. Applicant: Permit Application No. 2004–007

Grant Ballard, 4990 Shoreline Highway, Stinson Beach, CA 94970.

Activity for Which Permit Is Requested

Take and Import into the U.S.A. The applicant proposes to collect up to 10 specimens of a lichen discovered in Antarctica that may be a new species. The specimens will be brought back to the United States for further analysis and identification. Approximately half of the samples will be shipped from the U.S. to foreign lichen experts for collaboration on identification. Any remaining samples will be deposited to the California Academy of Sciences botanical collection.

Location

Igloo Spur (near Cape Crozier), Ross Island

Dates: November 10, 2003 to February 1, 2004

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 03–16347 Filed 6–26–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–116]

Iowa State University; Iowa State University UTR–10 Research Reactor; Notice of Approval of Decommissioning Plan and Notice of License Termination

The U.S. Nuclear Regulatory Commission (NRC) is noticing the approval of the decommissioning plan for the Iowa State University (ISU or the licensee) UTR–10 Research Reactor and is also noticing the termination of Facility Operating License No. R–59 for the ISU UTR–10 Research Reactor.

The NRC has terminated the license of the decommissioned ISU UTR–10 Research Reactor, which was located in the Nuclear Engineering Building on the west edge of the main campus of ISU in Ames, Iowa, and has released the site for unrestricted use. The licensee requested termination of the license in a letter to NRC dated March 7, 2003. The ISU UTR–10 Research Reactor was an Argonaut-type, water-moderated and cooled, graphite-reflected reactor. It was licensed and first operated in 1959 and had a licensed thermal power level of 10 kW. The reactor was permanently shut down on May 15, 1998. In January 1999 the licensee submitted a decommissioning plan to NRC for review and approval. The decommissioning plan was approved by License Amendment No. 14 issued on May 8, 2000.

A ''Notice of Application for Decommissioning Amendment, Iowa State University, UTR–10 Research Reactor'' appeared in the **Federal Register** on January 25, 1999 (64 FR 3725), and a ''Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action To Decommission Iowa State University UTR–10 Research Reactor'' appeared in the **Federal Register** on February 12, 1999 (64 FR 7214). No comments were received.

The NRC completed its review of the ISU UTR–10 Reactor Final Status Survey Report dated September 2000, which was submitted by the licensee to NRC by letter dated October 9, 2000, as supplemented on January 18, 2001. The report documented the level of residual radioactivity remaining at the facility and stated that compliance with the provisions of 10 CFR 20.1402 had been demonstrated.

Pursuant to 10 CFR 50.82(b)(6), the NRC staff concluded that the decommissioning has been performed in accordance with the approved decommissioning plan and that the terminal radiation survey and associated documentation demonstrate that the facility and site are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, Subpart E. Further, on the basis of the decommissioning activities conducted by ISU, the NRC's review of the licensee's final status survey report, the results of NRC inspections conducted at the URT–10 Research Reactor, and the results of NRC confirmatory surveys, the NRC has concluded that the decommissioning process is complete, and the facility and site are suitable to be released for unrestricted use. Based on the NRC staff's conclusions, Facility Operating License No. R–59 has been terminated.

For further details see the licensee's application for decommissioning dated January 4 and 6, 1999; License Amendment No. 14 to Facility Operating License No. R–59 dated May 8, 2000; the licensee's request for license termination dated March 7, 2003; the ISU UTR–10 ReactorFinal Status Survey Report dated September 2000, which was submitted to NRC by letter dated October 9, 2000, as supplemented on January 18, 2001; and NRC Inspection Report No. 50–116/2000–201, dated May 9, 2003. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555Rockville Pike (first floor), Rockville, Maryland. Publicly available records for ISU dated after January 30, 2000, will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should call the NRC PDR reference staff at 1–800–397–4209 or 301–415–4737 or e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 20th day of June 2003.

For the Nuclear Regulatory Commission.

Daniel E. Hughes,

Acting Section Chief, Research and Test Reactors Section, Operating Reactor Improvements Program, Division of Regulatory Improvement Programs,Office of Nuclear Reactor Regulation.

[FR Doc. 03–16294 Filed 6–26–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

AmerGen Energy Company, LLC; Oyster Creek Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) part 55, Section 55.59 for Facility Operating License No. DPR–16, issued to AmerGen Energy Company, LLC (AmerGen or the licensee), for operation of the Oyster Creek Nuclear Generating Station (OCNGS), located in Ocean County, New Jersey. As required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would constitute a one-time exemption to allow the current licensed operator requalification program to exceed 24 months. Specifically, it would extend the current licensed operator requalification program, including both the comprehensive requalification written examinations and the operating tests, for a period up to 90 days following resolution of the current strike but not to exceed six (6) months from the end of the current requalification program, *i.e.*, to December 31, 2003. The next requalification program period would begin upon conclusion of the current program and continue to June 30, 2005, with successive periods running for 24 months. The requested exemption from the requirements of 10 CFR Part 55.59, Item (c)(1), applies to both Reactor Operator and Senior Reactor Operator licensed personnel.

The proposed action is in accordance with the licensee's application for exemption dated May 30, 2003.

The Need for the Proposed Action

The proposed action would extend the current OCNGS requalification program from June 30, 2003, to 90 days following resolution of the strike, but no later than December 31, 2003. The proposed action is needed to allow for minimal interruption of the licensed personnel based on scheduling difficulties associated with the current labor strike, which commenced on May 22, 2003. The strike involves bargaining unit employees at OCNGS, including Reactor Operator licensed personnel.

Since the beginning of the strike, OCNGS has been operated by Senior Reactor Operator licensed personnel. As a result, both types of licensed personnel are unavailable for the requalification written examinations and operating tests until the strike is over.

Environmental Impacts of the Proposed Action

The NRC completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the extension of the completion date for the operator requalification program from June 30, 2003, to 90 days following resolution of the strike, but no later than December 31, 2003.

The proposed action will not significantly increase the probability or consequences of accidents, it will make no changes to the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. Thus, the environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for OCNGS, dated December 1974.

Agencies and Persons Consulted

On June 9, 2003, the NRC staff consulted with the State official, Mr. Rich Pinney of the New Jersey Department of Environment and Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated May 30, 2003. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area at O–1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 24th day of June, 2003.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Section 1, Project Directorate 1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–16295 Filed 6–26–03; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Audits of States, Local Governments, and Non-Profit Organizations

AGENCY: Office of Management and Budget.

ACTION: Revision of OMB Circular No. A–133.

SUMMARY: The Office of Management and Budget (OMB) is issuing final revisions to Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.'' The purpose of these revisions is to (1) increase the threshold for audit from $300,000 to $500,000, (2) increase the threshold for cognizant agency for audit from $25 million to $50 million, and (3) make related technical changes to facilitate the determination of cognizant agency for audit and provide for Federal agency reassignment of oversight agency for audit.

DATES: The final revisions are effective for fiscal years ending after December 31, 2003, and early implementation will not be permitted with the exception of the amendment to the definition of oversight agency for audit in Circular A–133, section _.105. The amendment to the definition of oversight agency for audit is effective July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Recipients should contact their cognizant agency for audit or oversight agency for audit or Federal awarding agency, as may be appropriate in the circumstances. Subrecipients should contact their pass-through entity. Federal agencies should contact Terrill W. Ramsey, Office of Federal Financial Management, Office of Management and Budget, 202–395–3993.

SUPPLEMENTARY INFORMATION: On August 12, 2002, OMB proposed revisions (67 FR 52545) to OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.'' The Office of Management and Budget (OMB) is issuing final revisions to Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.'' The revisions will (1) increase the threshold for audit from $300,000 to $500,000, (2) increase the threshold for cognizant agency for audit from $25 million to $50 million, and (3) make related technical changes to facilitate the determination of cognizant agency for audit and provide for Federal agency reassignment of oversight agency for audit.

The Single Audit Act Amendments of 1996, 31 U.S.C. 7502(a)(3), provide for the Director of OMB to review the single audit threshold on a biennial basis and increase it as appropriate. The audit threshold established in 1997 required all non-Federal entities (States, local governments, and non-profit organizations) that expend $300,000 or more in a year in Federal awards to have an audit conducted in accordance with Circular A–133. The revision increases the audit threshold from $300,000 to $500,000. This increase relieves almost 6,000 entities from the audit requirements of Circular A–133 while only exempting from audit less than one half of one percent of Federal awards expended (in dollars) by entities currently conducting Circular A–133 audits.

The revision increases the threshold for cognizant agency for audit from $25 million to $50 million. This change will reduce the number of non-Federal entities with a cognizant agency for audit assignment from approximately

1,000 to 500. This revision will allow Federal agencies to provide more focused attention where there is the greatest risk in terms of Federal awards expended, but still provide each non-Federal entity with an assigned oversight agency for audit from which to request technical advice. The revision also changes the base years for determining cognizant agency for audit assignments. (Currently, the cognizant agency for audit determination is based on the amount of Federal funding in the year immediately preceding each five-year audit cognizant period. This revision changes the base year to the second year preceding the five-year audit cognizant period to allow sufficient time to make cognizant agency for audit determinations before the start of the audit cognizance period.) Finally, the revision changes the definition of oversight agency for audit to permit Federal agencies to make reassignments.

Response to Comments

OMB received 43 comment letters: Eight from Federal agencies, seven from State governments, four from universities, five from non-profit organizations, 14 from certified public accountants, and five from individuals. Nearly all comments focused on raising the audit threshold: 28 were in favor and 10 opposed. Of the 10 that were opposed to raising the audit threshold, two were from Federal agencies; two were from one State; one from a university; and five from individuals. Opposition centered on concerns over specific programs and the perceived lack of accountability over Federal funds that would fall below the new threshold. On the other hand, several commenters suggested raising the threshold to $1 million to further alleviate the burden on non-Federal entities expending smaller amounts of Federal funds. OMB believes that, because the revisions only exempt an additional one-half of one percent of Federal dollars expended from audit while providing administrative relief to approximately 6,000 entities, the risk to Federal funds does not outweigh the benefits to grant recipients. OMB, however, appreciates the comments about reduced accountability and concerns expressed by several commenters that raising the audit threshold could provide more opportunities for fraud.

It is important to note that Circular A–133 audit is only one of many monitoring tools available to oversee the administration of and strengthen accountability over Federal grants. Grantee monitoring should occur throughout the year rather than relying solely on a once-a-year audit. Monitoring activities may take various forms; however, a first monitoring tool should be identifying to the grantee the Federal award information (*e.g.,* Catalog of Federal Domestic Assistance (CFDA) title and number, award name, name of Federal agency) and applicable compliance requirements. Other monitoring tools include reviewing grantee financial and performance reports, performing site visits to review financial and programmatic records and observe operations, and arranging for agreed-upon procedures engagements for certain aspects of grantee activities, such as described in § _.230(b)(2) of Circular A–133. Factors such as the size of awards, the complexity of the compliance requirements, and risk of grantee non-compliance as assessed by the grantor may influence the nature and extent of monitoring procedures. Federal laws or regulations may impose monitoring requirements specific to a Federal program. The 2003 OMB Circular A–133 Compliance Supplement clarifies the guidance to auditors related to subrecipient monitoring.

It should also be noted that the Federal Government has the authority to audit and/or investigate any entity suspected of using Federal funds improperly, regardless of the amount of funds involved. Allegations of fraud should be directed to the Federal awarding agency's Office of Inspector General fraud hotline phone numbers which are available on the Internet at *http://www.ignet.gov.*

Nine comments addressed the increase from $25 million to $50 million of the threshold for cognizant agency for audit. Seven commenters (two Federal and five non-Federal) supported the increase and two Federal agencies opposed. One concern was that the reduction in the number of cognizant agency for audit assignments would reduce Federal agency monitoring of audit quality. OMB is actively working with Federal agencies to strengthen quality control reviews of audits by selecting a statistical sample of single audits to measure audit quality across Federal programs. This work is expected to improve our ability to measure and improve audit quality.

Four comments concerned the technical changes. One Federal agency (which opposed all of the proposed revisions to Circular A–133) expressed concern about accountability over Federal funds. As noted above, OMB believes that the revisions to Circular A–133 provide an appropriate balance between administrative relief and the risk to Federal funds.

Availability of Revised Circular

OMB has prepared an updated version of Circular A–133, as amended herein. It is available electronically on the OMB Home Page at *http://www.omb.gov* and then select ''Grants Management'' followed by ''Circulars.''

Dated: June 23, 2003.

Augustine T. Smythe,

Acting Director.

1. OMB hereby amends Circular A–133 by replacing $300,000 with $500,000 in the following sections: § ____.200(a); § ____.200(b); § ____.200(d); § ____.230(b)(2); and § ____.400(d)(4).

2. OMB hereby amends Circular A–133 by replacing $25 million with $50 million in section § ____.400(a), first sentence.

3. OMB hereby amends Circular A–133 by replacing section § ____.400(a), third, fourth, and fifth (parenthetical) sentences with the following: § ____.400 Responsibilities.

(a) * * * The determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 2004, 2009, 2014, and every fifth year thereafter. For example, audit cognizance for periods ending in 2006 through 2010 will be determined based on Federal awards expended in 2004. (However, for 2001 through 2005, the cognizant agency for audit is determined based on the predominant amount of direct Federal awards expended in the recipient's fiscal year ending in 2000).

* * * * *

4. OMB hereby amends Circular A–133, section § ____.105, by adding at the end of the definition of oversight agency for audit: ''A Federal agency with oversight for an auditee may reassign oversight to another Federal agency which provides substantial funding and agrees to be the oversight agency for audit. Within 30 days after any reassignment, both the old and the new oversight agency for audit shall notify the auditee, and, if known, the auditor of the reassignment.''

[FR Doc. 03–16355 Filed 6–26–03; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

Use of a Universal Identifier by Grant Applicants

AGENCY: Office of Management and Budget.

ACTION: Notice of final policy issuance.

SUMMARY: The Office of Management and Budget (OMB) is issuing a policy directive to implement the requirement for grant applicants to provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003.

OMB has determined that there is a need for improved statistical reporting of Federal grants and cooperative agreements. Use of the DUNS number government-wide will provide a means to identify entities receiving those awards and their business relationships. The identifier will be used for tracking purposes, and to validate address and point of contact information. The DUNS number already is in use by the Federal government generally to identify entities receiving Federal contracts and by some agencies in their grant and cooperative agreement processes. Among existing numbering systems, the DUNS is the only one that provides the Federal government the ability to determine hierarchical and family-tree data for related organizations.

The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (Grants.gov). By using the Grants.gov portal, entities will be able to store in a central repository organizational information that does not change from application to application. The DUNS number will be one of those stored elements.

The DUNS number will supplement other identifiers required by statute or regulation, such as tax identification numbers. It is our intent over time to use the DUNS number throughout the grants life cycle.

Organizations should verify that they have a DUNS number or take the steps needed to obtain one as soon as possible if there is a possibility that they will be applying for Federal grants or cooperative agreements on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711. Individuals who would personally receive a grant or cooperative agreement award from the Federal government apart from any business or non-profit organization they may operate are exempt from this requirement.

DATES: A DUNS number must be included in every application for a new award or renewal of an award, including applications or plans under mandatory grant programs, submitted on or after October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Sandra R. Swab, Office of Federal Financial Management, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503; telephone 202–395–5642; or e-mail sswab@omb.eop.gov.

SUPPLEMENTARY INFORMATION

A. Background

In a **Federal Register** notice [67 FR 66177] published on October 30, 2002, the Office of Management and Budget (OMB) proposed to establish the DUNS number as the universal identifier for Federal grant and cooperative agreement applicants. The OMB notice also included a proposed policy to establish this policy as a government-wide requirement. We received comments from 37 separate entities: 3 universities; 12 State/local governments; 7 non-profit organizations; 9 Federal agencies; 5 associations, and a for-profit business. We considered all comments in developing the final policy. Comments generally were in support of the concept of the Universal Identifier although there were concerns about the use of the DUNS number and the impact on certain types of recipients. These concerns are addressed in the responses below. Other comments which were outside the scope of this proposal, will be separately considered by the Grants.gov Program Management Office or the Public Law 106–107 working groups, as appropriate.

The following paragraphs summarize the major comments and our responses. For simplicity, the term ''grant'' used in the following section also means ''cooperative agreement''.

B. Comments and Responses

Comments on Applicability

Comment: Four commenters questioned whether the requirement to obtain a DUNS number should be applied to individuals. They urged that individuals that apply for grants directly from the Federal government be exempted from the requirement to obtain a DUNS number in order to apply.

Response: Agree. We clarified the policy directive to indicate that individuals who would personally receive a grant or cooperative agreement award from the Federal government, apart from any business or non-profit organization they may operate, are not required to provide a DUNS number in order to apply for or conduct subsequent business with the Federal government under a grant. Individuals may continue to apply under programs for which they are eligible applicants without providing a DUNS number.

Comment: Ten commenters indicated that applying the DUNS number requirement to subrecipients would create difficulty and perhaps delay primary applicants in preparing their funding requests.

Response: Agree. The final policy directive indicates that applicants are not required to submit DUNS numbers for entities with which they may enter into subawards. Only the primary applicant, *i.e.,* the entity that makes application to the Federal government, including State, local, and Tribal governments, and other entities receiving block or other mandatory grants, will need a DUNS number at time of application.

Comment: Five commenters recommended that non-U.S. recipients be excluded from the DUNS number requirement since it would be difficult for many foreign organizations to obtain the number.

Response: Disagree. Foreign applicant organizations which are able to apply for a grant and meet the normal terms and conditions, including reporting requirements should be able to apply for and receive a DUNS number.

Comments on Numbering System/ Alternate Process

Comment: Fourteen commenters recommended that the Federal Employer Identification Number (EIN) be considered for the universal identifier instead of the DUNS because it is already widely used during the Federal government's administrative processing of grants, or that an entirely new numbering system be designed.

Response: Disagree. Although other numbering systems currently are in use (and will continue), none is adequate to identify family tree relationships or can provide the access and validation capabilities offered by the DUNS. Many potential applicants already possess DUNS numbers. Further, the cost of developing and maintaining another numbering system for grantees would not be justified.

Comment: One commenter recommended we use the Social Security Number (SSN) as the universal identifier. The commenter suggested that the DUNS number be used only for organizations, or other entities for which a SSN would not be appropriate.

Response: Agree with the substance of the comment. We have exempted individuals who would personally receive a grant or cooperative agreement award from the Federal government apart from any business or non-profit

organization they may operate from the policy directive's applicability.

Comment: Two commenters appeared to misinterpret our proposal for a universal identifier and assumed that our intent was to have the DUNS number replace all other identifiers. One commenter also suggested that the multiple grant identifiers currently in use by various Federal agencies should be replaced by DUNS, and the DUNS should be used consistently throughout the grant life cycle to complement grant award numbers.

Response: Agree. The final policy directive clearly states the purpose of the DUNS and the continued existence of other numbering systems. It also is our intent over time to use the DUNS number in other parts of the grants life cycle, replacing other numbers if possible.

Comments on Implementation

Comment: Six commenters expressed concern regarding the burden required in obtaining a DUNS number for those organizations that do not currently have one, with one noting a particular burden for small and community and faith-based organizations.

Response: Disagree. OMB has determined that obtaining a DUNS number is not a significant burden under the Paperwork Reduction Act. There should be minimal burden on applicants. Obtaining a DUNS number is a one-time activity. With use of the toll-free request line, there will be an immediate DUNS number assignment at no charge to the requestor.

Comment: Nine commenters requested guidance for entities that have multiple DUNS numbers. They were particularly concerned that large organizations with multiple DUNS numbers may not use the appropriate DUNS number when applying, which would result in inaccurate tracking. They also questioned whether Federal agencies will be responsible for verifying that applicants are using valid DUNS numbers.

Response: Agree in part. Dun and Bradstreet (D&B) will work with an applicant to understand or change their numbers, however each organization is responsible for controlling its own DUNS hierarchy. D&B recommends a single point of contact for each entity. The DUNS will not affect the ability of the entity to structure its organizational delegations and authorities for submitting applications. A central Federal repository [currently named the Business Partner Network (BPN), formerly the Central Contractor Registry (CCR)], rather than individual Federal agencies, will be responsible for performing periodic verification of DUNS numbers.

Comment: Four commenters suggested that the universal identifier might enhance the ability of State governments to track recipients of Federal funds within their States. These commenters also requested clarification of whether payment processes will be affected, for example, if the DUNS number would be required as part of each request to draw down Federal funds.

Response: No change. OMB is working to ensure that, for applications subject to the DUNS number requirements, Federal grant financial reporting, payment, and audit requirements are modified to also incorporate use of the DUNS number. It is OMB's intent to expand use of the DUNS number throughout the entire grants life-cycle.

Comments on Education/Outreach

Comment: Three commenters strongly recommended that applicants be notified up front through both paper and electronic means of the need to apply for a DUNS number before submitting a grant application and/or verify their organization's DUNS number. In addition, they suggested that applicants should know in advance what information they would be asked to provide.

Response: Agree. Guidance on how to obtain a DUNS number, verify whether an entity already has a DUNS number, and obtain copies of the organization family-tree will be provided at the Grants.gov portal. Links to this guidance will be included on Federal web sites, and it will be used in outreach and other education efforts.

Comment: Three commenters asked for information concerning how the Federal government will conduct outreach on the new policy within the various grant communities. In particular, they asked whose responsibility it is to inform the public. They suggested that OMB work with technical assistance providers that currently provide services to nonprofits on the outreach and educational efforts.

Response: Agree. Federal agencies will be responsible for notifying their respective applicant/recipient communities of the change. A link to the guidance on how to obtain a DUNS number will be available from Federal web sites. In addition, we will work with associations representing various constituencies for their assistance in ''getting the word out.''

Dated: June 23, 2003.

Linda M. Springer,

Controller.

To the Heads of Executive Departments and Agencies

Subject: Requirement for a DUNS Number in Applications for Federal Grants and Cooperative Agreements.

1. *Purpose.* This policy directive establishes the requirement that applications for Federal grants or cooperative agreements include a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number.

2. *Authority.* This policy directive is part of the implementation of the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107). This policy is also designed to further implement the E–Grants.gov initiative, one of the 24 electronic government (E–Gov) initiatives under the President's Management Agenda.

3. *Background.* Public Law 106–107 requires the Office of Management and Budget (OMB) to direct, coordinate, and assist Executive Branch departments and agencies in establishing an interagency process to streamline and simplify Federal financial assistance procedures for non-Federal entities. It also requires executive agencies to allow applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance programs administered by the agency.

Under the E–Grants.gov initiative, the Federal agencies are in the process of developing an electronic grant application system using standard core data elements. The DUNS number is one of those data elements. It will be used to link to fixed applicant data, such as name and address fields, maintained in a central Federal registration repository. This will allow the data to automatically populate corresponding fields in the electronic application. Applicants will not have to re-enter this information on each electronic application they submit. The DUNS number requirement is also applicable to paper applications because of planned reporting requirements.

4. *Policy.*

a. *Applicability.* This policy applies to all types of entities applying for Federal grants or cooperative agreements under discretionary and mandatory grant programs or activities except:

i. Individuals who would personally receive a grant or cooperative agreement award from the Federal government apart from any business or non-profit organization they may operate.

ii. Any applicant that receives an exemption, or an applicant under a

program that receives an exemption (see paragraph c. below).

For purposes of this policy, the applicant is the entity that meets the agency's or program's eligibility criteria and has the legal authority to apply. For example, a consortium formed to apply for a grant or cooperative agreement must obtain a DUNS number for that consortium. If a consortium is eligible, and the agency's policy is to make the award to a lead entity for the consortium, the DUNS number of the lead entity will be used.

b. *Effect.* Every application for a new award or renewal of an award, including applications or plans under mandatory grant programs, submitted on or after October 1, 2003 must include a DUNS number for the applicant. Unless an exemption is granted, an application will not be considered complete until a valid DUNS number is provided by the applicant.

For Federal purposes, the applicant is not required at this time to submit DUNS numbers for entities with which it may enter into subawards.

The DUNS number does not replace existing numbers, such as the Employer Identification Number (EIN), the Tax Identification Number (TIN), and State Application Identifier (SAI) numbers that are required by statute, Executive Order, or regulation.

c. *Exemptions.* Agencies may not grant exemptions from this policy. Requests for exemptions must be directed to OMB.

5. *Agency Responsibilities.* Agencies that award grants or cooperative agreements shall:

a. Issue any needed implementing direction to component offices to meet the requirements of this policy directive.

b. Provide outreach and education appropriate to their applicant communities regarding the requirement for a DUNS number. Agencies should encourage entities that anticipate applying for Federal grants or cooperative agreements to obtain a DUNS number in advance of a specific application. Agencies should inform entities that it is their responsibility to obtain a DUNS number.

c. Include this requirement in all funding opportunity announcements issued on or after the effective date of this policy directive with application due dates or acceptance dates on or after October 1, 2003. For all other funding opportunity announcements with due dates or acceptance dates on or after October 1, 2003, agencies must amend their announcements or take other appropriate measures to inform potential applicants of this requirement. These requirements apply equally to other types of notifications if funding opportunity announcements are not used.

d. Revise their grant and cooperative agreement applications and plans to include a DUNS number. OMB approval is not required to add a DUNS number field to previously approved forms.

e. Ensure that their grant-related processing systems, and other systems as appropriate, are able to accept the DUNS number.

6. *Information Contact.* Direct any requests for exemption or questions about this policy directive to Sandra Swab, Office of Federal Financial Management, 202–395–5642 (direct) or 202–395–3993 (main office), or via e-mail *(sswab@omb.eop.gov)*

7. *Effective Date.* This policy directive is effective 30 days after issuance.

Dated: June 23, 2003.

Linda M. Springer,

Controller.

[FR Doc. 03–16356 Filed 6–26–03; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

Final Report of the Small Business Paperwork Relief Task Force

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: The Office of Management is publishing the Final Report of the Small Business Paperwork Relief Task Force on June 28, 2003. The Small Business Paperwork Relief Task Force recommends options regarding the feasibility of consolidating information collections, organizing a list of information collections, and creating interactive electronic systems. A Draft Report was released for public comment May 9, 2003 and the response to comments is included in Appendix 8 of the Final Report. The Final Report of the Small Business Paperwork Relief Task Force is posted on OMB's Web site, *http://www.whitehouse.gov/omb/inforeg/sbpr2003.pdf,* and on the Small Business Administration's Web site for business laws, *http://www.businesslaw.gov.*

FOR FURTHER INFORMATION CONTACT: Shivani Desai, Office of E-Government and Information Technology, Office of Management and Budget, E-mail: *shivani_desai@omb.eop.gov,* Telephone: (202) 395–3092.

SUPPLEMENTARY INFORMATION: Congress directed the Director of OMB to convene and have a representative chair a Task Force ''to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information'' (44 U.S.C. 3520, Pub. L. 107–198). More specifically, this Small Business Paperwork Relief Task Force is charged with examining five ways to reduce the information collection burden placed by government on small business concerns. They are:

1. Examine the feasibility and desirability of requiring the consolidation of information collection requirements within and across Federal agencies and programs, and identify ways of doing so.

2. Examine the feasibility and benefits to small businesses of having OMB publish a list of data collections organized in a manner by which they can more easily identify requirements with which they are expected to comply.

3. Examine the savings and develop recommendations for implementing electronic submissions of information to the Federal government with immediate feedback to the submitter.

4. Make recommendations to improve the electronic dissemination of information collected under Federal requirements.

5. Recommend a plan to develop an interactive Government-wide Internet program to identify applicable collections and facilitate compliance.

The Small Business Paperwork Relief Task Force is required to submit a report of its findings on the first three issues no later than one year after enactment, or June 28, 2003. A second report on the final two issues is required no later than two years after enactment, or June 28, 2004. Both reports must be submitted to the Director of OMB; the Small Business and Agriculture Regulatory Enforcement Ombudsman; and the Senate Committees on Governmental Affairs and Small Business and Entrepreneurship; and, the House Committees on Government Reform and Small Business.

The Director of OMB appointed Dr. John D. Graham, Administrator of the Office of Information and Regulatory Affairs, and Mr. Mark A. Forman, Administrator for the Office of E-Government and Information Technology, to co-chair the Small Business Paperwork Relief Task Force.

The Act specifies the following agencies to be represented on the SBPRA Task Force: Department of Labor (including the Bureau of Labor

Statistics, and the Occupational Safety and Health Administration); Environmental Protection Agency; Department of Transportation; Office of Advocacy of the Small Business Administration; Internal Revenue Service; Department of Health and Human Services (including the Centers for Medicare and Medicaid Services); Department of Agriculture; Department of the Interior; the General Services Administration; and two other participants to be selected by the Director of OMB (who are the Department of Commerce and additional representatives from the Small Business Administration).

The Small Business Paperwork Relief Task Force solicited public comments on the Draft Report from May 9, 2003 to June 4, 2003. All comments received by OMB were considered and resulted in modifications to the final report. A summary of the public comments with responses of the Task Force is attached in Appendix 8 of the Final Report.

Donald R. Arbuckle,

Administrator, Office of Information and Regulatory Affairs.

Mark Forman,

Administrator, Office of E-Government and Information Technology.

[FR Doc. 03–16223 Filed 6–26–03; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48075; File No. PCAOB–2003–02]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rule on Funding

June 23, 2003.

Pursuant to section 107(b) of the Sarbanes-Oxley Act of 2002 (the ''Sarbanes-Oxley Act'' or ''Act''), notice is hereby given that on April 16, 2003, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rules as described in Items I, II, and III below, which items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rules from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rule

On April 16, 2003, the Board adopted five proposed rules relating to public company funding of the Board's operations (PCAOB Rules 7100 through 7104), plus certain definitions that would appear in PCAOB Rule 1001, to implement section 109 of the Act. Section 109 provides that funds to cover the Board's annual budget (less registration and annual fees paid by public accounting firms) are to be collected from public companies (*i.e.*, ''issuers,'' as defined in the Sarbanes-Oxley Act). The amount due from such companies is referred to in the Sarbanes-Oxley Act as the Board's ''accounting support fee.'' The five proposed rules provide for equitable allocation, assessment and collection of the Board's accounting support fee.

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, its proposed rules on funding and discussed comments it received on them. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

(a) Purpose

The Act established the Board as a nonprofit corporation, subject to and with all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, to oversee the audits of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors.

Section 109 of the Act provides that funds to cover the Board's annual budget (less registration and annual fees paid by public accounting firms) are to be collected from public companies (*i.e.*, ''issuers,'' as defined in the Act). The amount due from such companies is referred to in the Act as the Board's ''accounting support fee.'' The Board has adopted five proposed rules relating to public company funding of the Board's operations (PCAOB Rules 7100 through 7104), plus certain definitions that would appear in Rule 1001, to implement section 109 of the Act.

The Board's proposed rules provide for the accounting support fee to be allocated to, and payable by, two classes of issuers: (1) Publicly-traded companies with average, monthly U.S. equity market capitalizations during the preceding year, based on all classes of common stock, of greater than $25 million,[1] and (2) investment companies with average, monthly U.S. equity market capitalizations (or net asset values) of greater than $250 million.[2] In recognition of the structure of investment companies and the relatively less-complex nature of investment company audits (as compared to operating company audits), investment companies would be assessed at a lower rate. All other issuers, including (1) those that are not required to file audited financial statements with the Commission, (2) employee stock purchase, savings and similar plans, and (3) bankrupt issuers that file modified reports, would be allocated shares of zero.[3]

(i) *Computation of Accounting Support Fee and Allocation to Issuers.* Once each year, the Board will compute the accounting support fee.[4] The accounting support fee will be equal to the Board's budget for that year, as approved by the Commission, less the amount of registration and annual fees received during the prior year from public accounting firms.[5]

In establishing rules on the allocation of the accounting support fee, the Board was guided by two overarching principles that emanate from section 109 of the Act: that, generally, the accounting support fee must be allocated in a manner that reflects the proportionate sizes of issuers, and that, within that framework, the accounting support fee must be allocated in an

[1] The definition of ''issuer market capitalization'' in Rule 1001(i)(i) defines that term to include only the aggregate market value of securities traded in the United States, whether those securities are issued by entities based in the United States or elsewhere. The definition excludes the market value of securities traded outside the United States.

[2] This class would include both registered investment companies and issuers that have elected to be regulated as business development companies pursuant to section 54 of the Investment Company Act of 1940 (''Investment Company Act''). In the case of an investment company with multiple series, the average, monthly U.S. equity market capitalization, or net asset value, of each series would be measured against the $250 million threshold separately.

[3] In addition, issuers with average, monthly U.S. equity market capitalizations during the preceding year of less than $25 million (or, in the case of investment companies, of less than $250 million), issuers whose only outstanding public securities are debt securities would be allocated shares of zero, and issuers whose share price (or net asset value) on a monthly, or more frequent, basis is not publicly available.

[4] Rule 7100. The Board anticipates that the accounting support fee will normally be computed during the first 30 days of each calendar year.

[5] *Id.* The term ''accounting support fee'' is defined in Rule 1001(a)(i) by reference to Rule 7100.

equitable manner. These two principles are related in that, at least as a general matter, size of issuer may serve as an indication of the complexity of an audit, which could be an equitable measure on which to base allocation of the accounting support fee.

With respect to the measurability of issuers' proportionate sizes, the Board faces certain limitations. First, although section 109 provides a formula based on equity market capitalization by which to measure the proportionate sizes of issuers, market data may not be reliable or even regularly available[6] with respect to some issuers, such as issuers that are not traded on an exchange or quoted on Nasdaq, issuers whose securities are otherwise illiquid, and certain investment companies, such as unit investment trusts and insurance company separate accounts. In addition, issuers whose only publicly-traded securities are debt securities do not have equity market capitalizations.

Second, to the extent that there are issuers, as that term is defined in section 2(a)(7) of the Act, that are not required to file audited financial statements, it may not be equitable to allocate any share of the accounting support fee to them. Further, while most investment companies file annual audited financial statements, the assets of many of those companies consist of investments in issuers who will have themselves been allocated shares of the accounting support fee.

In order to allocate the accounting support fee among issuers in a manner that takes into account the overarching principles and the inherent limitations of available data, the Board's proposed rules divide issuers into four classes:

(1) All issuers whose average, monthly U.S. equity market capitalization during the preceding calendar year, based on all classes of common stock, is greater than $25 million and whose share price on a monthly, or more frequent, basis is publicly available.[7] (Equity Issuers class)

(2) Registered investment companies and issuers that have elected to be regulated as business development companies whose average, monthly market capitalization (or net asset value), during the preceding calendar year, is greater than $250 million and whose share price (or net asset value) on a monthly, or more frequent, basis is publicly available.[8] (Investment Company Issuers class) As discussed below, the allocation formula scales market capitalization (or, for investment companies whose securities are not traded on an exchange or quoted on Nasdaq, net asset value) of investment companies down by 90%, such that a $250 million investment company would be allocated a share equal to that of a $25 million operating company.

(3) All issuers that, as of the date the accounting support fee is calculated under Rule 7100, (i) have a basis, under a Commission rule or pursuant to other action of the Commission or its staff, not to file audited financial statements, (ii) are employee stock purchase, savings and similar plans, interests in which constitute securities registered under the Securities Act of 1933, as amended (the ''Securities Act''), or (iii) are subject to the jurisdiction of a bankruptcy court and satisfy the modified reporting requirements of Commission Staff Legal Bulletin No. 2.[9] (Issuers Permitted Not to File Audited Financial Statements and Bankrupt Issuers That File Modified Reports class)

(4) All other issuers (*i.e.*, issuers that do not fall in classes (1), (2), or (3)).[10] (All Other Issuers class)

A company's status as an issuer (or as an investment company, business development company, issuer excused from filing audited financial statements, or bankrupt issuer) will be determined as of the date on which the amount of the annual accounting support fee is set. Companies that are not issuers on that date will not be required to pay any fee during that year.

The accounting support fee will be allocated among the issuers in the four classes in the following manner:

(1) Each company in the Equity Issuer and Investment Company Issuer classes will be allocated an amount equal to the accounting support fee, multiplied by a fraction. The numerator of the fraction will be the issuer's average, monthly market capitalization during the preceding calendar year. The denominator will be the sum of the average, monthly market capitalizations of all Equity and Investment Company Issuers. For purposes of this allocation, however, the market capitalization of an investment company issuer will be ten percent of the investment company's market capitalization or net asset value.[11]

(2) All issuers in the other two classes—issuers permitted not to file and all other issuers—will be allocated a share of zero.[12]

Issuers will be required to pay their allocated shares of the accounting support fee, rounded to the nearest hundred. Accordingly, issuers whose shares of the accounting support fee are less than $50 will have their shares rounded to zero and will not be assessed a fee.

(ii) *Notice of Allocation and Collection.* Section 109 of the Act requires the Board to promulgate rules on assessment and collection of the accounting support fee. Accordingly, the proposed rules provide that, after the annual allocation of the accounting support fee is determined, the Board will send a notice to each issuer to which a share of the fee has been allocated.[13] These notices will be sent either electronically or by first-class mail. Payment will be due on the 30th day after transmittal, after which interest will accrue at a rate of 6% per annum.[14]

The Board intends that notices will contain sufficient information to permit issuers to review the calculations by which their allocations were

[6] Under section 109(g), the allocation of an issuer's share of the accounting support fee is to be based on the ''average monthly equity market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which'' the budget relates.

[7] Rule 7101(a). The Commission uses a similar threshold–public float of less than $25 million—as one of the criteria for determining whether a company qualifies as a small business issuer. *See* 17 CFR 228.10.

[8] Rule 7101(a)(2). The legislative history of the Act supports the Board's proposal to establish a separate class for investment company issuers and to allocate shares of the accounting support fee to members of that class at a reduced rate. *See* Floor Statement of Sen. Enzi, 148 Cong. Rec. S7356 (July 25, 2002):

I also believe that the Conferees expect that the Board and the standard setting body will deem investment companies registered under section 8 of the Investment Company Act of 1940 to be a class of issuers for purposes of establishing the fees pursuant to this section, and that investment companies as a class will pay a fee rate that is consistent with the reduced risk they pose to investors when compared to an individual company. Audits of investment companies are substantially less complex than audits of corporate entities. The failure to treat investment companies as a separate class of issuers would result in investment companies paying a disproportionate level of fees.

[9] Rule 7101(a)(3). Paragraph (i) of this class currently includes (A) asset-backed issuers, (B) unit investment trusts, as defined in section 4(2) of the Investment Company Act, that have not filed or updated a registration statement that became effective during the preceding year, and (C) Small Business Investment Companies registered on Form N–5 under the Investment Company Act, that have not filed or updated a registration statement that became effective during the preceding year.

[10] Rule 7101(a)(4).

[11] Rule 7101(b)(1).

[12] Rule 7101(b)(2).

[13] Rule 7102. The Board will use its best efforts to send a notice to each issuer. Mailings will be to the address shown on such issuer's most recent periodic report filed with the Commission or submitted to the Commission's EDGAR system, unless the issuer provides another address to the Board. The Board's failure to send an issuer a notice, or the issuer's failure to receive a notice sent by the Board, will not excuse an issuer from its obligation to pay its share of the accounting support fee.

[14] Rule 7103(a).

determined. Specifically, all notices will include the amount of the accounting support fee, the date on which the accounting support fee was calculated, the class in which the issuer was placed, the issuer's average, monthly U.S. equity market capitalization for the preceding year, and the sum of the average, monthly U.S. equity market capitalizations of all issuers in the Equity Issuer and Investment Company Issuer classes during the preceding year.[15] Issuers that disagree with the class in which they have been placed, or with the calculation by which their allocations were determined, may petition the Board for a correction, in writing.[16]

If an issuer has not paid its share of the accounting support fee by the 60th day after a notice was sent, and the issuer does not have a petition pursuant to Rule 7102(c) pending, the Board may send a second notice by certified mail.[17] If the Board has sent a second notice and payment has still not been made by the 90th day after the original notice was sent, the Board may report the issuer's non-payment to the Commission.[18] An issuer's failure to pay its share of the accounting support fee is a violation of section 13(b)(2) of the Securities Exchange Act of 1934 (''Exchange Act'') and could, like any other Exchange Act violation, result in administrative, civil, or criminal sanctions.[19]

In addition, the Board's proposed rules require that no registered public accounting firm may sign an unqualified audit opinion (or issue a consent) with respect to an issuer's financial statements if that issuer has outstanding any past-due share of the accounting support fee and the issuer has not filed a petition for a correction to its share of the accounting support fee.[20] The Board's proposed rules would permit a qualified, adverse or disclaimed opinion irrespective of whether the issuer's share had been paid.[21] The collection measures in the Board's proposed rules are intended to ensure the reliability of the independent funding source the Act provides for the Board and to promote fairness to all issuers allocated a share of the accounting support fee. The Board intends the requirement that auditors confirm payment of an issuer's share of the accounting support fee before issuing an unqualified audit opinion to serve as a reliable and cost-effective means of maintaining integrity in the assessment and collection process. A note to proposed Rule 7103(b) explains that a registered public accounting firm may confirm an issuer's payment of the accounting support fee by obtaining a management representation of payment. In addition, the Board plans to build systems that would enable auditors quickly and easily to ascertain whether their issuer audit clients have outstanding any past-due shares of the accounting support fee.

(iii) *Collection of Fees for Standard-Setting Body.* Under the Act, the standard-setting body designated by the Commission to establish accounting principles is also authorized to collect an accounting support fee from public companies to cover its annual budget.[22] The Board's proposed rules recognize that, as contemplated in the Act, the standard-setting body could designate an agent to assess and collect its fees and the Board could be that agent.[23] If that occurs, the Board's assessment and collection of the standard-setting body's fees will be governed by the same rules as apply to the Board's fees.

Consistent with section 109(e) of the Act, the Board would not be responsible for calculating the standard-setting body's accounting support fee or for allocating its accounting support fee among issuers. While section 109 of the Act governs both the Board's and the standard-setting body's accounting support fee, the standard-setting body is not required to use the Board's allocation formula. If the standard-setting body designates the Board as its collection agent, however, the Board's proposed rules would effectively require the standard-setting body to agree to the same assessment and collection process (for example, rounding issuers' shares to the nearest hundred, and reporting issuers' non-payment to the Commission) as applies to the Board's accounting support fee. The Board envisions that, if it is designated to serve as the standard-setting body's collection agent, issuers would receive one notice and make one payment. The notice would clearly distinguish between the amount that goes to the Board and the amount that goes to the accounting standard-setter, and it would provide issuers with separate calculations of how the amount of each assessment was reached.

(b) Statutory Basis

The statutory basis for the Board's proposed rules on funding is Title I of the Sarbanes-Oxley Act.

B. Board's Statement on Burden on Competition

The Board has stated that the proposed rules on funding do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of Title I of the Sarbanes-Oxley Act.

C. Board's Statement on Comments on the Proposed Rule Change Received From the Public

The proposed rules on funding were published for public comment in PCAOB Release No. 2003–002 (March 14, 2003). A copy of PCAOB Release No. 2003–002 and copies of the comment letters received in response to the PCAOB's request for comment are available on the PCAOB's Web site at *http://www.pcaobus.org.* The Board received eight written comments, from the following firms and individuals:

a. Alcon, Inc.
b. Boeing Company
c. Deloitte & Touche
d. Ernst & Young LLP
e. Henjes, Conner, Williams & Grimsley
f. Investment Company Institute
g. KPMG
h. Paul B.W. Miller, PhD, CPA, University of Colorado at Colorado Springs/Paul R. Bahnson, PhD, CPA, Boise State University

The Board both clarified and modified certain aspects of the proposed rules in response to the comments received. For instance, one commenter requested that the Board clarify how average monthly market capitalization would be determined. The proposed rules and release now explain that average monthly market capitalization will be based on closing prices on the last day of each month measured and, in general, on the number of shares outstanding reported in the issuer's periodic filings with the Commission.

Some commenters also requested that the Board broaden the classes of issuers described as ''Equity Issuers'' and ''Investment Company Issuers,'' in

[15] As discussed above, the allocation formula will use only 10 percent of the average, monthly market capitalization (or net asset value) of investment companies. Both the market capitalization (or net asset value) and the percentage thereof used in the formula will be disclosed as part of the notice.

[16] Rule 7102(c). After the date on which the accounting support fee is calculated under Rule 7100 and allocated under Rule 7101, any change or recalculation of the share allocated to an issuer will not affect the share allocated to any other issuer. Rule 7101(c).

[17] Rule 7103(c).

[18] Rule 7103(c).

[19] *See* sections 21C(a), 21(d), and 32(a) of the Exchange Act.

[20] Rule 7103(b).

[21] Rule 7103(b) does not prevent, in any way, a registered accounting firm from publicly disclosing departures from GAAP, or any other reservations about financial statements, that would be disclosed in a qualified opinion, an adverse opinion, or a disclaimer of an opinion. *See AICPA Codification of Statements on Auditing Standards,* AU §§ 508.20, 508.58–59, 508.61–62 (AICPA 2002).

[22] *See* section 109(e) of the Act.

[23] Rule 7104.

proposed Rule 7101(a)(1) and (2), to include all public companies and investment companies, regardless of their market capitalizations, and also include issuers with only registered debt securities. Some commenters also suggested establishing a minimum fee for small issuers as an alternative to the formula provided in the Act. The Board's proposal to restrict the Equity Issuers class to issuers whose average monthly market capitalization exceeds $25 million and to restrict the Investment Company class to issuers whose average monthly market capitalization (or net asset value) exceeds $250 million was to ensure that the rules can be administered in a reliable and cost-effective manner. As discussed above, reliable market data is difficult to obtain with respect to issuers that are not traded on an exchange or on Nasdaq, and based on the Board's inquiry, data may not consistently be available with respect to issuers below the proposed rule's thresholds. Based in part on these comments, however, the Board has clarified Rule 7101(a) to more explicitly exclude from those classes issuers whose market capitalization (or net asset value) on a monthly, or more frequent, basis is not publicly available. Also, with respect to issuers of debt securities, section 109(g) of the Act only provides for the assessment of a share of the accounting support fee based on ''equity'' market capitalization.

The Board also received a comment suggesting that preferred stock should be included in the definition of issuer market capitalization. The Board proposed that the definition of issuer market capitalization include capitalization of all classes of common stock. After consideration, the Board believes that determining whether each issuer's preferred stock resembles equity or debt would unduly burden the Board's administration of its funding system. Therefore, the Board did not adopt this suggestion.

While one commenter supported the proposed rules with respect to investment companies as proposed, another commenter suggested that the 90 percent reduction in investment company market capitalizations (or net asset values), for purposes of calculating the accounting support fee in proposed Rule 7101(b)(1), was too great a reduction. This commenter did not provide any data to support its position, although it recommended further study of this issue. Based on a comparison of audit fees paid by investment companies to audit fees paid by publicly-traded companies, which was provided by the commenter who supported the Board's proposal, the Board has determined that assessing investment companies at ten percent of that assessed public companies was appropriate.

In addition, the Board received several comments from accounting firms, suggesting that the Board rely on its referral of delinquent issuers to the Commission instead of require, pursuant to proposed Rule 7103(b), that registered public accounting firms ascertain, before signing an unqualified audit opinion, that issuer audit clients have no outstanding past-due shares of the accounting support fee. While the Board has proposed to refer delinquent issuers to the Commission, the uncertainty, given the Commission's limited resources and other priorities, that the Commission would bring civil actions against such issuers makes a referral alone an unreliable collections mechanism. These commenters also suggested that the Board clarify how this rule would work in practice. In response, the Board has clarified that Rule 7103(b) may be satisfied by obtaining a representation from the issuer that no past due share of the fee is outstanding. The Board has also made clear that an issuer that has filed a written petition for a correction of its share will not be deemed to have a past due share outstanding.

Finally, the Board held two informational meetings during the comment period, one in Washington, DC, and one in San Francisco, CA, with representatives of issuers to explain the proposed rules on funding. No substantive comments were received as a result of either meeting.

III. Date of Effectiveness of the Proposed Rule and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Board consents the Commission will:

(a) By order approve the Board's proposed rules on funding; or

(b) Institute proceedings to determine whether the Board's proposed rules on funding should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule is consistent with the requirements of Title I of the Sarbanes-Oxley Act and the Exchange 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 that are filed with the Commission, and all written communications relating to the proposed rule 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 in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the PCAOB. All submissions should refer to File No. PCAOB–2003–02 and should be submitted by July 18, 2003.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16269 Filed 6–26–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48066; File No. SR–Amex–2003–49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Revise Its Fee Schedule in Connection With the Administration of Forms U–4 and U–5 Through NASD's Web-Based Central Registration Depository System

June 19, 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 28, 2003, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to revise its fee schedule in connection with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

administration of Forms U–4 and U–5 through the National Association of Securities Dealers, Inc.'s (''NASD'') Web-based Central Registration Depository system (''Web CRD'') ®.[3] The proposed fee schedule is available at the Office of the Secretary, the Amex, and at the Commission.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex Rule 340 currently requires Amex members and member organizations to submit Forms U–4 (Uniform Application for Securities Industry Registration or Transfer) and U–5 (Uniform Termination Notice for Securities Industry Registration) for their employees with access to the trading floor (*e.g.,* members and clerks). The Exchange also has long required persons who seek either to become members or to own a membership to submit Forms U–4 in connection with their membership applications. These forms currently are submitted to the Exchange's Membership Services Division as paper documents.

The Exchange is now proposing to require all its members, member organizations and seat owners to use NASD's Web CRD as the mechanism for submitting required Forms U–4 and U–5 filings to the Exchange.[5] The Exchange anticipates that, during the period between September 3 and September 19, 2003, Amex members and member organizations will electronically file Forms U–4 with Web CRD for all individuals who then work on the trading floor who have not previously submitted a Form U–4 to Web CRD. Going forward from September 3, 2003, the Exchange also will require individuals who have not previously registered with the Exchange and who (i) seek to become a regular, options principal, or associate member, (ii) seek to become a limited trading permit holder, (iii) seek to own a regular, options principal, associate membership or limited trading permit, or (iv) are or should be an approved person or allied member, to electronically file Form U–4 with Web CRD.

The CRD system is a Web-based system that provides broker-dealers and their associated persons with ''one-stop filing'' with the Commission, NASD, and other self-regulatory organizations (''SROs'') and regulators. The CRD system is operated by NASD and is used by participating regulators in connection with registering and licensing broker-dealers and their associated persons. The Exchange believes that automating the review of registration applications and termination notices by transitioning all Forms U–4 and U–5 filings to Web CRD would enable the Exchange to more efficiently perform its regulatory responsibilities with respect to members and member organizations and, thereby, would ultimately enhance investor protection.

In addition, the Exchange is proposing to revise its registration fees in connection with the implementation of Web CRD for filing Forms U–4 and U–5. The new registration fees would take effect when the Exchange requires the use of Web CRD, which currently is scheduled for September 3, 2003. Members and member organizations would be instructed to pay the CRD processing fees directly to NASD through Web CRD. NASD would collect the appropriate processing fees in connection with the Amex member or member organization effecting a registration through Web CRD and retain or disburse to Amex the fee as described below.

The following are the proposed Web CRD processing fees. First, the proposed revisions to the fee schedule would implement an $85 CRD Processing Fee charged by NASD for all Initial, Dual Registration, Transfer, and Re-license Form U–4 filings. This fee, combined with the current, corresponding Amex fees, would bring the total amount paid to NASD for Initial Individual and Dual Registrations to $145 ($60 Amex Standard Application Fee plus $85 CRD Processing Fee), and the total amount paid to NASD for Transfer and for Re-licensing to $125 ($40 Amex Standard Application Fee plus $85 CRD Processing Fee). The Amex Application Fees of $60 (for Initial Individual Registration) and $40 (for Transfers and for Re-licensing) would be collected on behalf of and disbursed back to Amex by NASD. These fees would offset the costs to the Amex of reviewing and processing all applications.

Second, the proposed revisions to the fee schedule would implement a $95 Disclosure Processing Fee charged by NASD in connection with Forms U–4 and U–5 for all filings with new or amended disclosure information. There is no corresponding Amex fee. The Amex, however, would continue to assess a $30 Termination Fee in connection with all Form U–5 filings. The Termination Fee would be collected by NASD on behalf of and disbursed back to Amex.

Third, the proposed revisions to the fee schedule would implement a $30 NASD Annual System Processing Fee assessed only during renewals. Therefore, the total annual processing/maintenance cost charged at the renewal cycle per registered person would be $77, which includes the current $47 Amex annual Renewal fee that would be collected on behalf of Amex by NASD and covers the costs of the Exchange associated with the registration program.

Fourth, the proposal would raise the current $25 fee for fingerprinting to $35 and transfers this fee from the ''Member Fee'' to the ''Registration'' section of the Exchange's fee schedule. This fee would be retained by NASD, as the NASD would process fingerprint cards as part of the Exchange's migration to the Web CRD system. (The NASD would remit $22.00 of this fee to the FBI as its processing fee.) The Amex also would implement a $13.00 fee for Posting Fingerprint Results Processed through other SROs. This fee would be retained by NASD and would be imposed where NASD accepts the results of fingerprints processed by the NASD through another SRO.

In addition to the fees outlined above, Amex members and member organizations would be required to pay a one-time Web CRD System Transition Fee of $85 per person to transition to

[3] CRD is a registered trademark of NASD and the North American Securities Administrators Association, Inc.

[4] In connection with the instant proposal, the Exchange filed an effective on filing rule proposal to amend Amex Rule 340, Disapproval of Employees, and Amex Rule 341, Approval of Registered Employees and Officers, and to adopt new Amex Rule 359, Application and Termination Forms (Forms U–4 and U–5), to provide for the processing of the Form U–4 and Form U–5 by the Web CRD system for all individuals required to be registered with or approved by the Exchange. *See* Securities Exchange Act Release No. 48067 (File No. SR–Amex–2003–48).

[5] A number of individuals that work on the trading floor already have submitted Forms U–4 to Web CRD if they work for dual Amex/NASD member firms and their job responsibilities require registration with NASD.

Web CRD the individuals currently registered with Amex that are not on Web CRD. This is a fee payable to the NASD to cover its processing costs for the migration to Web CRD. Furthermore, any individual transitioned to Web CRD who has a ''yes'' answer to a disclosure question on the U–4 would be assessed a $95 Disclosure Fee which would be retained by NASD.

In connection with this filing, the Exchange also proposes to delete language in its fee schedule that pertains to a fee waiver that has expired. In addition, the Exchange proposed to update the ''Electronic access fee'' under ''Membership Fees'' in the fee schedule to reflect a change to electronic access fees approved by the Commission in SR–Amex–2001–15.[6] This item is amended to delete the ''10% of average membership seat sale price, set annually'' provision and to replace it with the access fee of $61,363.00.[7]

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)(4)[9] in particular, because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[6] *See* Securities Exchange Act Release No. 44337 (May 22, 2001), 66 FR 29369 (May 30, 2001).

[7] Amex corrects the figure in this proposed rule change from $61,262.00, as it was stated in the filing, to $61,363.00, which is the electronic access fee adopted from SR–Amex–2001–15. Amex notes that the fee schedule that was attached to the proposed rule change does correctly state $61,363.00 as the fee. Telephone conversation between Bill Floyd-Jones, Associate General Counsel, Amex, and Cyndi Rodriguez, Special Counsel, Division of Market Regulation, Commission, on June 10, 2003.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[10] and subparagraph (f)(2) of Rule 19b–4 thereunder[11] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2003–49 and should be submitted by July 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16335 Filed 6–26–03; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48072; File No. SR–Amex–2003–64]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to the Automatic Execution of Option Linkage Orders

June 20, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 19, 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 the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Amex Rule 941(e) for the purpose of permitting the automatic execution of Linkage Orders even though the Exchange's Auto-Ex system (''Auto-Ex'') has been (i) disengaged because of an influx of orders or (ii) by-passed whenever a locked market causes an inversion in the quote.

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, when an order on the Amex is not eligible for automatic execution through Auto-Ex,[3] the specialist is required to manually address and execute the order. The Exchange is proposing to amend Amex Rule 941(e)[4] in order to provide that Linkage Orders[5] may be automatically executed in certain cases even if Auto-Ex is not available for non-Linkage Orders.

The proposed amendment to Amex Rule 941(e) will allow the Exchange to automatically execute certain Linkage Orders even though the Exchange's Auto-Ex system has been disengaged or by-passed as a result of (i) an influx of orders or (ii) when a locked market has cause an inversion in the quote. Under these circumstances, an Exchange specialist would be able to provide an automatic execution for a Linkage Order even though a non-Linkage Order would continue to be ineligible for Auto-Ex.

The Amex is proposing this change because with respect to Linkage Orders, especially in those option classes experiencing high volume and activity, manual handling of such orders in situations when Auto-Ex is not available has created difficulty for specialists in meeting their regulatory obligations under Amex Rule 941(e).[6] The result has been that a portion of all Linkage Orders received by the Amex have not been executed. The Exchange believes that this proposal permitting an automatic execution for certain orders that would otherwise be ineligible for an automatic execution will help to increase the Exchange's executions of Linkage Orders.

The Amex, along with the other options exchanges, launched Phases I and II of the Linkage on January 31, 2003 and April 25, 2003, respectively. Phase I is limited to automatic executions while Phase II was expanded to include manual handling of Linkage Orders and satisfaction liability. Pursuant to an exemption granted by the Commission on May 30, 2003, the deadline for final implementation of Phase II of the Linkage Plan has been extended until June 27, 2003.[7] The Exchange believes that the proposal will help specialists execute a larger percentage of their Linkage Orders consistent with the Plan.

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)[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, to remove impediments to and perfect the mechanism 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 proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[10] and paragraph (f)(6) of Rule 19b–4 thereunder.[11] Consequently, because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for thirty days from the date on which it was filed or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change along with a brief description and text of the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) may not become operative prior to thirty (30) days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange seeks to have the thirty (30) day waiting period waived in order for this proposed rule change to be operative immediately. Consistent with the protection of investors and the public interest, the Commission has determined to make the proposed rule change operative as of the date of this order.[13] The Commission believes that the proposed rule change will assist specialists in automatically executing a greater number of their Linkage Orders, consistent with the final

[3] Amex Rule 933(f)(i) sets forth the situations where Auto-Ex may be disengaged or operated in a manner other than the normal manner. The circumstances of Auto-Ex disengagement outlined in the Rule include market data delays, unusual markets, unusual market conditions, system malfunctions, influx of order executions and for certain market activity such as book bids or offers and locked or crossed markets.

[4] Amex Rule 941(e) entitled ''Receipt of Linkage Orders,'' sets forth the manner in which Linkage Orders will be executed given the Exchange's disseminated quotation and the size of the particular order.

[5] ''Linkage Order'' means an order routed through the Linkage as permitted under the Linkage Plan. There are three types of Linkage Orders as follows: (i) ''Principal Acting as Agent (''P/A'') Order,'' which is an order for the principal account of a specialist (or equivalent entity on another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the specialist is acting as agent; (ii) ''Principal Order,'' which is an order for the principal account of an Eligible Market Maker (or equivalent entity on another Participant Exchange) and is not a P/A Order; and (iii) ''Satisfaction Order,'' which is an order sent through the Linkage to notify a Participant Exchange of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through.

[6] Amex Rule 941(e) provides that if a Linkage Order is not eligible for automatic execution, the specialist must address the order within 15 seconds to provide an execution for at least the Firm Customer Quote Size or Firm Principal Quote Size, respectively. *See also* The Plan for the Purpose of Creating and Operating an Intermarket Options Market Linkage (the ''Linkage Plan'' or ''Plan''), Securities Exchange Act Release No. 47297 (January 31, 2003), 68 FR 6526 (February 7, 2003).

[7] *See* letter from Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission, to Michael Ryan, Executive Vice President and General Counsel, Amex, Joanne Moffic-Silver, General Counsel and Corporate Secretary, Chicago Board Options Exchange, Inc., Kathryn L. Beck, Senior Vice President, General Counsel and Corporate Secretary, Pacific Exchange, Inc. and Lanny Schwartz, Executive Vice President and General Counsel, Philadelphia Stock Exchange, Inc., dated May 30, 2003.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 CFR 240.19b–4(f)(6).

[12] The Commission has waived the requirement that the Exchange provide written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[13] For purposes of only accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

implementation of Phase II of the Linkage.

At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2003–64 and should be submitted by July 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16336 Filed 6–26–03; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48074; File No. SR–Amex–2003–41]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating To Listing Fees for Closed-End Funds

June 23, 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 2, 2003, the American Stock Exchange LLC (''Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which the Amex has prepared. On June 10, 2003, the Amex filed Amendment No. 1 to the proposed rule change.[3] On June 16, 2003, the Amex filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Sections 140 and 141 of the Amex *Company Guide* to set forth original listing and annual fees applicable to closed-end funds.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Amex *Company Guide*

Section 140, Original Listing Fees

Stock Issues

(No change to schedule.)

Issues Listed Under § 106 (Currency and Index Warrants) and § 107 (Other Securities)

(No change to schedule.)

Warrants

(No change.)

Bonds

(No change.)

Index Fund Shares [and], Trust Issued Receipts *and Closed-End Funds*—The original listing fee for Index Fund Shares listed under Rule 1000A*,* [and] Trust Issued Receipts listed under Rule 1200 *and Closed-End Funds listed under Section 101 of the Company Guide* is $5,000 for each series *or Fund,* with no application processing fee.

* * * * *

Section 141, Annual Fees

Stock Issues*;* [and] Issues Listed Under § 106 and 107 and Rule 1200 (Trust Issued Receipts); *and Closed-End Funds.*

(No change to schedule.)

Issues Listed Under Rule 1000A (Index Fund Shares)

(No change to schedule.)

The annual fee is payable in January of each year and is based on the total number of all classes of shares (excluding treasury shares) and warrants according to information available on Exchange records as of December 31 of the preceding year. (The above fee schedule also applies to companies whose securities are admitted to unlisted trading privileges.)

In the calendar year in which a company first lists, the annual fee will be prorated to reflect only that portion of the year during which the security has been admitted to dealings and will be payable within 30 days of the date the company receives the invoice, based on the total number of outstanding shares of all classes of stock at the time of original listing.

The annual fee for issues listed under Rule 1000A (Index Fund Shares) and Rule 1200 (Trust Issued Receipts) is based upon the number of shares of a series of Index Fund Shares or Trust Issued Receipts outstanding at the end of each calendar year. For multiple series of Index Fund Shares issued by an open-end management investment company, or for multiple series of Trust Issued Receipts, the annual listing fee is based on the aggregate number of shares in all series outstanding at the end of each calendar year.

The annual fee for a Closed-End Fund listed under Section 101 of the Company Guide is based upon the number of shares outstanding of such Fund at the end of each calendar year. For multiple Closed-End Funds of the same sponsor, the annual listing fee is based on the aggregate number of shares outstanding of all such Funds at the end of each calendar year.

* * * * *

Section 146, Adjustment to Fees

The Exchange, in its discretion, may reduce or waive the listing fees imposed pursuant to the above provisions under certain circumstances where deemed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which replaced the original filing in its entirety, the Amex amended Section 146 of the Amex *Company Guide* to eliminate a reference to the multiple listing of closed-end funds by a single sponsor as an example of a situation where the Amex could reduce or waive listing fees when it deems that such action is appropriate to achieve an equitable result. *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 9, 2003.

[4] In Amendment No. 2, the Amex amended Section 141 of the Amex *Company Guide* to clarify that the Amex will base its annual fee for closed-end funds on the number of shares outstanding at the end of the calendar year. *See* letter from Michael Cavalier, Associate General Counsel, Amex to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated June 13, 2003.

appropriate to achieve an equitable result, such as [the multiple listing of closed-end funds by a single sponsor,] spin-offs of enterprises to existing shareholders of a listed company or other similar situations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 Amex proposes to amend Section 140 (Original Listing Fees) and Section 141 (Annual Fees) of the Amex *Company Guide* to specify the initial and annual fees applicable to closed-end funds, which are listed under Section 101 of the *Company Guide.*

The Amex proposes that the initial listing fee for closed-end funds under Section 140 of the Amex *Company Guide* will be the same as for Index Fund Shares and Trust Issued Receipts ($5,000 for each fund without the application processing fee of $5,000 that is applied to certain issuers).

The Amex proposes to amend Section 141 of the Amex *Company Guide* so that the annual fee for closed-end funds would range from $15,000 to $30,000 based on the number of shares outstanding, and would be the same as the annual fee applicable to stock issues, Trust Issued Receipts, and issues listed under Sections 106 (Index and Currency Warrants) and 107 (Other Securities) of the *Company Guide.*

As with annual fees applicable to Index Fund Shares and Trust Issued Receipts, the Amex believes it is appropriate, for the purpose of calculating the annual fee, to aggregate the number of shares outstanding for all closed-end funds of the same fund sponsor listed on the Amex as of calendar year end.

The Amex is also proposing to amend Section 146 of the *Company Guide,* which includes multiple listing of closed-end funds by a single sponsor as an example of a situation where the Amex, in its discretion, may reduce or waive listing fees under certain circumstances where deemed appropriate to achieve an equitable result. The proposed amendment to Section 141 of the Amex *Company Guide* would render unnecessary the reference to multiple closed-end funds in Section 146 of the Amex *Company Guide.* Accordingly, the Amex proposes to delete the reference.

2. Statutory Basis

The Amex believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[5] in general, and further the objectives of Section 6(b)(5),[6] in particular, because 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, to remove impediments to and perfect the mechanism 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 Amex does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Amex neither solicited nor received written comments on the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, as amended; or

(B) institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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 filings will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2003–41 and should be submitted by July 18, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16337 Filed 6–26–03; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48065; File No. SR–NASD–2003–100]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Listing and Trading of Performance Leveraged Upside Securities Based on the Value of the Nasdaq-100 Index

June 19, 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 June 19, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to list and trade Performance Leveraged Upside Securities (''PLUS'') based on the value of the Nasdaq-100 Index (''Notes'') issued by Morgan Stanley & Co., Inc. (''Morgan Stanley'').

II. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to list and trade Performance Leveraged Upside Securities (''PLUS''), the return on which is based upon the Nasdaq-100 Index.[3]

Under Rule 4420(f), Nasdaq may approve for listing and trading innovative securities which cannot be readily categorized under traditional listing guidelines.[4] Nasdaq proposes to list for trading notes based on the Nasdaq-100 Index under Rule 4420(f).

The Notes, which will be registered under section 12 of the Act, will initially be subject to Nasdaq's listing criteria for other securities under Rule 4420(f). Specifically, under Rule 4420(f)(1):

(A) The issuer shall have assets in excess of $100 million and stockholders' equity of at least $10 million.[5] In the case of an issuer which is unable to satisfy the income criteria set forth in paragraph (a)(1), Nasdaq generally will require the issuer to have the following: (i) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (ii) Assets in excess of $100 million and stockholders' equity of at least $20 million;

(B) There must be a minimum of 400 holders of the security, provided, however, that if the instrument is traded in $1,000 denominations, there must be a minimum of 100 holders;

(C) For equity securities designated pursuant to this paragraph, there must be a minimum public distribution of 1,000,000 trading units;

(D) The aggregate market value/principal amount of the security will be at least $4 million.

In addition, Morgan Stanley satisfies the listed marketplace requirement set forth in Rule 4420(f)(2).[6] Lastly, pursuant to Rule 4420(f)(3), prior to the commencement of trading of the Notes, Nasdaq will distribute a circular to members providing guidance regarding compliance responsibilities and requirements, including suitability recommendations, and highlighting the special risks and characteristics of the Notes. In particular, Nasdaq will advise members recommending a transaction in the Notes to: (1) Determine that such transaction is suitable for the customer; and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

The Notes will be subject to Nasdaq's continued listing criterion for other securities pursuant to Rule 4450(c). Under this criterion, the aggregate market value or principal amount of publicly-held units must be at least $1 million. The Notes also must have at least two registered and active market makers as required by Rule 4310(c)(1). Nasdaq will also consider prohibiting the continued listing of the Notes if Morgan Stanley is not able to meet its obligations on the Notes.

The Notes are a series of medium-term, senior non-convertible debt securities that will be issued by Morgan Stanley. The original public offering price of the Notes will be $10 per PLUS. The Notes will not pay interest and are not subject to redemption by Morgan Stanley or at the option of any beneficial owner before maturity on August 30, 2004.

At maturity, if the value of the Nasdaq-100 Index has increased, a beneficial owner will be entitled to receive a payment on the Notes based on 300% the amount of that percentage increase, subject to a maximum total payment at maturity that is expected to be between $11.80 and $12.00 (the ''Maximum Payment at Maturity'').[7] Thus, the Notes provide investors the opportunity to obtain leveraged returns based on the Nasdaq-100 Index subject to a cap that is expected to represent an appreciation of 18% to 20% over the original issue price of the Notes. Unlike ordinary debt securities, the Notes do not guarantee any return of principal at maturity. Therefore, if the value of the Nasdaq-100 Index has declined at maturity, a beneficial owner will receive less, and possibly significantly less, than the original issue price of $10 per PLUS.

The payment that a beneficial owner will be entitled to receive at maturity depends entirely on the relation of the

[3] The Nasdaq-100 Index is a modified capitalization-weighted index of 100 of the largest non-financial companies listed on The Nasdaq National Market tier of The Nasdaq Stock Market. The Index constitutes a broadly diversified segment of the largest securities listed on the The Nasdaq Stock Market and includes companies across a variety of major industry groups. The securities in the Index must, among other things, have an average daily trading volume on Nasdaq of at least 200,000 shares.

In order to limit domination of the Index by a few large stocks, the Index is calculated under a ''modified capitalization-weighted'' methodology, which is a hybrid between equal weighting and conventional capitalization weighting. Under the methodology employed, on a quarterly basis coinciding with Nasdaq's quarterly scheduled weight adjustment procedures, the Index Securities are categorized as either ''Large Stocks'' or ''Small Stocks'' depending on whether their current percentage weights (after taking into account such scheduled weight adjustments due to stock repurchases, secondary offerings, or other corporate actions) are greater than, or less than or equal to, the average percentage weight in the Index (*i.e.*, as a 100-stock index, the average percentage weight in the Index is 1.0%). Such quarterly examination will result in an Index rebalancing if either one or both of the following two weight distribution requirements are not met: (1) the current weight of the single largest market capitalization Index component security must be less than or equal to 24.0%, and (2) the ''collective weight'' of those Index component securities whose individual current weights are in excess of 4.5%, when added together, must be less than or equal to 48.0%. Index securities are ranked by market value and are evaluated annually to determine which securities will be included in the Index. Moreover, if at any time during the year an Index security is no longer trading on the Nasdaq Stock Market, or is otherwise determined by Nasdaq to become ineligible for continued inclusion in the Index, the security will be replaced with the largest market capitalization security not currently in the Index that meets the Index eligibility criteria.

For a detailed description of the Nasdaq-100 Index, see the prospectus supplement that will be filed by Morgan Stanley with the Commission prior to the issuance of the Notes.

[4] *See* Securities Exchange Act Release No. 32988 (September 29, 1993); 58 FR 52124 (October 6, 1993).

[5] Morgan Stanley satisfies this listing criterion.

[6] Rule 4420(f)(2) requires issuers of securities designated pursuant to this paragraph to be listed on The Nasdaq National Market or the New York Stock Exchange (''NYSE'') or be an affiliate of a company listed on The Nasdaq National Market or the NYSE; provided, however, that the provisions of Rule 4450 will be applied to sovereign issuers of ''other'' securities on a case-by-case basis.

[7] The actual Maximum Payment at Maturity will be determined at the time of issuance of the Notes.

value of the Nasdaq-100 Index on August 26, 2004 (the ''Final Index Value'') and the value of the Nasdaq-100 Index on the day the PLUS is offered for initial sale to the public (the ''Initial Index Value''). If the Final Index Value is greater than the Initial Index Value, the payment at maturity per PLUS will equal the lesser of (a) $10 plus the Leveraged Upside Payment [8] and (b) the Maximum Payment at Maturity. If the Final Index Value is less than or equal to the Initial Index Value, the payment at maturity per PLUS will equal $10 times the Index Performance Factor.[9]

The Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security, dividend payments or any other ownership right or interest in the portfolio or index of securities comprising the Nasdaq-100 Index. The Commission has previously approved the listing of options on, and other securities the performance of which has been linked to or based on, the Nasdaq-100 Index.[10]

As of May 31, 2003, the adjusted market capitalization of the securities included in the Nasdaq-100 Index ranged from a high of $170.3 billion to a low of $2.2 billion. The average daily trading volume for these same securities for the last five months, as of the same date, ranged from a high of 68.1 million shares to a low of 527,400 shares.

Since the Notes will be deemed equity securities for the purpose of Rule 4420(f), the NASD and Nasdaq's existing equity trading rules will apply to the Notes. First, pursuant to Rule 2310 and IM–2310–2, members must have reasonable grounds for believing that a recommendation to a customer regarding the purchase, sale or exchange of any security is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.[11] In addition, as previously described, Nasdaq will distribute a circular to members providing guidance regarding compliance responsibilities and requirements, including suitability recommendations, and highlighting the special risks and characteristics of the Notes. Furthermore, the Notes will be subject to the equity margin rules. Lastly, the regular equity trading hours of 9:30 a.m. to 4 p.m. will apply to transactions in the Notes.

Nasdaq represents that NASD's surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, NASD will rely on its current surveillance procedures governing equity securities, and will include additional monitoring on key pricing dates.

Morgan Stanley will deliver a prospectus in connection with the initial purchase of the Notes. The procedure for the delivery of a prospectus will be the same as Morgan Stanley's current procedure involving primary offerings.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with section 15A of the Act,[12] in general, and furthers the objectives of section 15A(b)(6)[13] of the Act, in particular, in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received on the proposed rule change.

III. 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 NASD. All submissions should refer to File No. SR–NASD–2003–100 and should be submitted by July 18, 2003.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

Nasdaq has asked the Commission to approve the proposal on an accelerated basis to accommodate the timetable for listing the Notes. The Commission notes that it has previously approved the listing and trading of options on, and securities (including similar ''leveraged'' products) the performance of which have been linked to or based on the Nasdaq-100 Index.[14]

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of section 15A of the Act.[15] Specifically, the Commission finds that the proposal is consistent with section 15A(b)(6) of the Act,[16] which requires in part that the rules be designed to promote just and equitable principles of trade, to remove

[8] The Leveraged Upside Payment is the product of (i) $10 and (ii) 300% and (iii) the Index Percent Increase (a fraction, the numerator of which is the Final Index Value minus the Initial Index Value and the denominator of which is the Initial Index Value).

[9] The Index Performance Factor is a fraction, the numerator of which is the Final Index Value and the denominator of which is the Initial Index Value.

[10] *See* Securities Exchange Act Release No. 45429 (February 11, 2002), 67 FR 7438 (February 19, 2002) (approving the listing and trading of Enhanced Return Notes Linked to the Nasdaq-100 Index); Securities Exchange Act Release No. 45024 (November 5, 2001), 66 FR 56872 (November 13, 2001) (approving the listing and trading of Enhanced Return Notes Linked to the Nasdaq-100 Index); Securities Exchange Act Release No. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (approving the listing and trading of Performance Leveraged Upside Securities based upon the performance of the Nasdaq-100 Index); Securities Exchange Act Release No. 43000 (June 30, 2000), 65 FR 42409 (July 10, 2000) (approving the listing and trading of options based upon one-tenth of the value of the Nasdaq-100 Index); Securities Exchange Act Release No. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (approving the listing and trading of Portfolio Depositary Receipts based on the Nasdaq-100 Index); Securities Exchange Act Release No. 33428 (January 5, 1994), 59 FR 1576 (January 11, 1994) (approving the listing and trading of options on the Nasdaq-100 Index).

[11] Rule 2310(b) requires members to make reasonable efforts to obtain information concerning a customer's financial status, a customer's tax status, the customer's investment objectives, and such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

[12] 15 U.S.C. 78*o*–3.

[13] 15 U.S.C. 78*o*–3(b)(6).

[14] *See* n. 10, *supra*.

[15] 15 U.S.C. 78*o*–3.

[16] 15 U.S.C. 78*o*–3(b)(6).

impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.[17] The Commission believes that the proposal to list and trade the PLUS will provide investors flexibility in satisfying their investment needs by providing them with the opportunity to obtain leveraged returns based on the Nasdaq-100 Index, subject to the Maximum Payment at Maturity. Specifically, as described more fully above, if the value of the Nasdaq-100 Index has increased, a beneficial owner will be entitled to receive at maturity a payment on the Notes based on triple the amount of any percentage increase in the Index, subject to the specified Maximum Payment at Maturity.

The Commission notes that the PLUS are leveraged debt instruments and that their price will be derived and based upon the performance and value of the Nasdaq-100 Index. In addition, as discussed more fully above, the Notes do not guarantee any return of principal at maturity. Thus if the Index has declined at maturity, a beneficial owner may receive significantly less than the original public offering price of the Notes. Accordingly, the level of risk involved in the purchase or sale of the PLUS is similar to the risk involved in the purchase or sale of traditional common stock. In addition, because the final rate of return of the PLUS is derivatively priced and is based on the performance of an index of securities, because the Notes are debt instruments that do not guarantee a return of principal, and because investors' potential return is limited by the Maximum Payment at Maturity, there are several issues regarding the trading of this type of product.

The Commission notes that Nasdaq's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the PLUS. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes Nasdaq has addressed adequately the potential problems that could arise from the hybrid nature of the PLUS. Moreover, Nasdaq will distribute a circular to its membership calling attention to the specific risks associated with the PLUS.

In approving the product, the Commission recognizes that the components of the Nasdaq-100 Index may change each year over the life of the product. Nevertheless, the Commission believes that this is acceptable because Nasdaq has clearly stated its guidelines and formula for replacing components from a specific group of the largest and most actively traded securities listed on the Nasdaq, including companies across a variety of major industry groups. Each year, as noted above, the index of securities comprising the Nasdaq-100 Index will represent the 100 largest non-financial companies listed on The Nasdaq National Market tier of Nasdaq. Nasdaq will do the calculation for replacements based on a set formula to determine which of the securities will be in the Nasdaq-100 Index for the following year. The Commission believes that within these confines the potential changes in the components of the Nasdaq-100 Index are reasonable and will meet the expectation of investors.

In addition, the Commission notes that, unlike traditional debt securities, the PLUS are non-principal protected. The PLUS will not have a minimum principal amount that will be repaid and may be less than the original issue price of the PLUS. The Commission also notes that the PLUS will be registered under section 12 of the Act and will be treated as equity securities, subject to NASD and Nasdaq's existing equity trading rules, including rules on suitability, margin, disclosure, trading hours, and surveillance.

Nasdaq represents that the PLUS meet NASD requirements for depository eligibility under NASD Market Place Rules 4310 and 11310 for purposes of clearance and settlement. The Commission notes that Morgan Stanley will deliver a prospectus to investors with the initial purchase of the PLUS. In addition, Nasdaq will issue a circular to NASD members explaining the unique characteristics and risks of the PLUS. The circular will also note NASD member and member organization responsibilities under Marketplace Rule 2310 and IM–2310–2. Specifically, NASD members must have reasonable grounds for believing that a recommendation to a customer regarding the purchase, sale or exchange of any security is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

Furthermore, the Commission notes that the PLUS are dependent upon the individual credit of the issuer, Morgan Stanley. To some extent this credit risk is minimized by Nasdaq's listing standards in NASD Marketplace Rule 4420(f), which provide the only issuers satisfying substantial asset and equity requirements may issue securities such as the PLUS. In addition, Nasdaq's hybrid listing standards further require that the PLUS have at least $4 million in market value.[18] In any event, financial information regarding Morgan Stanley, in addition to the information on the issuers of the underlying securities comprising the Nasdaq-100 Index, will be publicly available.[19]

The Commission also has a systemic concern, however, that a broker-dealer, such as Morgan Stanley, or a subsidiary providing a hedge for the issuer will incur position exposure. As discussed in the prior approval orders for other hybrid instruments,[20] the Commission believes this concern is minimal given the size of the PLUS issuance in relation to the net worth of Morgan Stanley.

The Commission also believes that the listing and trading of the PLUS should not unduly impact the market for the underlying securities comprising the Nasdaq-100 Index or raise manipulative concerns. The Commission notes that the Index is determined, composed, and calculated by Nasdaq according to objective, publicly-available criteria. As of May 31, 2003, the adjusted market capitalization of the securities included in the Nasdaq-100 Index ranged from a high of $170.3 billion to a low of $2.2 billion. The average daily trading volume for these same securities for the last five months, as of the same date, ranged from a high of 68.1 million shares to a low of 527,400 shares. Given the large capitalizations, liquid markets, and relative weightings of the Index's component stocks, the Commission continues to believe, as it has concluded previously, that the listing and trading of the Notes that are linked to the Nasdaq-100 Index should not unduly impact the market for the underlying securities comprising the Nasdaq-100 Index or raise manipulative concerns.[21] First, the underlying securities comprising the Nasdaq-100 Index are well-capitalized, highly liquid stocks listed on the Nasdaq. Second, the Commission believes that the weighting and potential quarterly rebalancing of the Nasdaq-100 Index should ensure that no single stock or group of stocks will likely dominate the Nasdaq-100 Index, significantly minimizing the potential for manipulation of the index.

[17] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] *See* NASD Marketplace rule 4420(f).

[19] The companies that comprise the Nasdaq-100 Index are reporting companies under the Act.

[20] *See, e.g.,* Securities Exchange Act Release No. 44913, (October 9, 2001), 66 FR 52469 (October 15, 2001) (SR–NASD–2001–73) (order approving the listing and trading of notes issued by Morgan Stanley Dean Witter & Co. whose return is based on the performance of the Index).

[21] *See* n. 8, *supra.*

Third, the Commission believes that the Nasdaq-100 would be difficult to manipulate based on the wide range of instruments that provide economic exposure to the Index. Finally, Nasdaq's surveillance procedures will serve to deter as well as detect any potential manipulation. The Commission also notes that the value of the Nasdaq-100 Index is disseminated every 15 seconds over the Nasdaq Trade Dissemination System.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Nasdaq has requested accelerated approval in order to begin listing and trading the PLUS immediately. In determining to grant the accelerated approval for good cause, the Commission notes that the Nasdaq-100 Index is an index of large, actively traded securities listed on the Nasdaq. Additionally, the PLUS will be listed pursuant to existing hybrid security listing standards as described above. Moreover, the Nasdaq-100 Index's weighting methodology is a commonly applied index calculation method. The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Based on the above, the Commission finds, consistent with sections 15A(b)(6) [22] and 19(b) [23] of the Act, that there is good cause for accelerated approval of the product.

The Commission is approving Nasdaq's proposed listing and trading standards for the PLUS. The Commission specifically notes that, notwithstanding approval of the listing standards for the PLUS, other similarly structured products will require review by the Commission prior to being trading on Nasdaq.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NASD–2003–100) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–16268 Filed 6–26–03; 8:45 am]

BILLING CODE 8010–01–P

[22] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78s(b).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–2(a)(12).

DEPARTMENT OF STATE

[Public Notice 4387]

Office of Visa Services; 60-Day Notice of Proposed Information Collection: Form DSP–122, Supplemental Registration for the Diversity Immigrant Visa Program; OMB Control Number 1405–0098

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: Extension of currently approved collection.

Originating Office: Bureau of Consular Affairs, Department of State (CA/VO).

Title of Information Collection: Supplemental Registration For The Diversity Immigrant Visa Program.

Frequency: Once per respondent.

Form Number: DSP–122.

Respondents: Aliens applying for a Diversity Visa.

Estimated Number of Respondents: 50,000 per year.

Average Hours Per Response: .5 hours.

Total Estimated Burden: 25,000 hours per year.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT:

Public comments, or requests for additional information regarding the collection listed in this notice should be directed to Brendan Mullarkey of the Office of Visa Services, U.S. Department of State, 2401 E St. NW., RM L–703, Washington, DC 20520, who may be reached at 202–663–1163.

Dated: June 4, 2003.

Janice L. Jacobs,

Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 03–16339 Filed 6–26–03; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–02–14038]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before August 26, 2003.

ADDRESSES: Comments must refer to the docket notice number cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Dr. George Mouchahoir, NHTSA 400 Seventh Street, SW., Room 5313–E, NVS–113, Washington, DC 20590. Dr. Mouchahoir's telephone number is (202) 366–4919. Please identify the relevant collection of information by referring to this Docket Number (Docket Number NHTSA–02–14038).

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995,

before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How 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, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Final rule, response to petitions for reconsideration; Phase-in reporting requirements.

OMB Control Number: None.

Affected Public: Manufacturers of passenger cars, and trucks and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 3,855 kilograms (8,500 pounds) or less, and of buses with a GVWR of 4,536 kilograms (10,000 pounds) or less.

Form Number: None.

Number of Respondents: From existing phase-in reporting requirements (Part 596) for this standard, we expect about 20 respondents.

Estimated Annual Burden: Since almost all of the information required is already recorded by the manufacturers as part of their production control and tracking systems, a nominal assessment of 60 total burden hours per respondent is estimated for data retrieval and report preparation. The estimated cost per hour in dollars is $35. Based on this estimate, the total annual burden for manufacturers would be: (20 respondents) × (60 total burden hours per respondent) × ($35 per hour) = $42,000.

Abstract: NHTSA issued a final rule establishing FMVSS No. 225, ''Child restraint anchorage systems,'' in March 1999 (64 FR 10786). A final rule, response to petitions for reconsideration is prepared to respond to remaining outstanding issues raised by petitions for reconsideration of the agency's March 1999 final rule, and of the agency's previous responses to petitions, published in August 1999 (64 FR 47566) and July 2000 (65 FR 46628). The final rule is published in today's edition of the **Federal Register** (RIN 2127–AH99, Docket Number NHTSA–03–15438).

The final rule resolves the issue of the appropriateness of the 15,000 N strength requirement for tether and lower anchorages (S6.3 and S8.1 of FMVSS No. 225) and the 11,000 N strength requirement for the lower anchorages only (S9.4.1(a)). Those strength requirements are, for the most part, unchanged from the March 1999 final rule. However, this final rule makes several important amendments to requirements of the standard relating to how the 15,000 and 11,000 N loads are applied and how the agency determines compliance with the requirements. Examples of these are the change from the 125 mm displacement criterion for the tether anchorage to one that determines whether the anchorage withstood the force by assessing the deformation of the structure; and the change in the load application rate for the 11,000 N load for the lower anchorages from 10 seconds to 1 second. The agency has determined that these changes may necessitate the reassessment by manufacturers of some vehicle models as to whether the vehicles comply with the amended standard. Further, some manufacturers may need more time than the period from now until August 31, 2004 to make whatever changes are needed to the structure of the vehicles to meet the new requirements. Because of this, this final rule gives vehicle manufacturers an additional year, for a few model lines, to assess whether their vehicles meet this rule's amended strength requirements and to make necessary changes to meet the requirements. Ninety (90) percent of the vehicles they manufacture on or after September 1, 2004 and before September 1, 2005 must be certified as meeting the amended strength requirements. One hundred (100) percent of the vehicles manufactured on or after September 1, 2005 must be certified as meeting the requirements. Thus, a new phase-in schedule is being established to make it easier for manufacturers to comply with the permanent requirements. The collection of information is used for recordkeeping to keep track of covered vehicles, and for reporting to the agency the covered vehicles that comply with the requirements.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: June 19, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–15954 Filed 6–26–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34358]

New York and Eastern Railway LLC—Lease, Operation, and Future Purchase Exemption—New York Central Lines, LLC and CSX Transportation, Inc.

New York and Eastern Railway LLC (NY&E), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to lease and operate, pursuant to an agreement [1] entered into with New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT), approximately 4.7 miles of rail line and associated property presently owned by NYC and operated by CSXT extending from milepost QCO 0.0 (approximately Valuation Station 60+80), to milepost QCO 3.2 (approximately Valuation Station 113+10) and from milepost QCK 29.5 (approximately Valuation Station 2331+25) to milepost QCK 31.0 (approximately Valuation Station 2266+00), a total of approximately 44.91 acres, in the Town and City of Poughkeepsie, Dutchess County, NY. In addition, the agreement gives NY&E an option to purchase the rail property which NY&E anticipates exercising within several months after instituting operations under the lease.

NY&E certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail

[1] NY&E states that the agreement is to become effective on July 15, 2003.

carrier and that its annual revenues are not projected to exceed $5 million.

The parties propose to consummate the transaction on or about July 15, 2003.

This transaction is related to STB Finance Docket No. 34357, *Eyal Shapira—Continuance in Control Exemption—New York and Eastern Railway LLC and Raritan Central Railway, L.C.C.,* wherein Eyal Shapira has concurrently filed a verified notice to continue in control of NY&E, upon NY&E becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34358, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 23, 2003.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–16304 Filed 6–26–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34357]

Eyal Shapira—Continuance in Control Exemption—New York and Eastern Railway LLC and Raritan Central Railway L.L.C.

Eyal Shapira (Shapira), an individual, has filed a verified notice of exemption to continue in control of New York and Eastern Railway LLC (NY&E), upon NY&E becoming a Class III rail carrier.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34358, *New York and Eastern Railway LLC—Lease, Operation, and Future Purchase Exemption—New York Central Lines, LLC and CSX Transportation, Inc.,* wherein NY&E seeks to lease and operate (with an option to purchase) approximately 4.7 miles of rail line and associated property presently owned by New York Central Lines, LLC and operated by CSX Transportation, Inc, in the Town and City of Poughkeepsie, Dutchess County, NY.

Shapira owns a majority interest and controls one existing Class III rail carrier: Raritan Central Railway, L.L.C., that operates in the Townships of Edison and Woodbridge, in Middlesex County, NJ.

Shapira states that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34357, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 23, 2003.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–16305 Filed 6–26–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket Nos. AB–55 (Sub-No. 635X) and AB–364 (Sub-No. 9X)]

CSX Transportation, Inc.—Abandonment Exemption—in Gratiot County, MI; Mid-Michigan Railroad, Inc.—Discontinuance of Service Exemption—in Gratiot County, MI

CSX Transportation, Inc. (CSXT) and Mid-Michigan Railroad, Inc. (MMR) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for CSXT to abandon and MMR to discontinue service over approximately 5.5 miles of railroad from milepost CBE–40.00 at Alma, to milepost CBE–45.5 at Elwell, in Gratiot County, MI. The line traverses United States Postal Service Zip Codes 48801 and 48832.

CSXT and MMR have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on July 29, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any

file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 7, 2003. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 17, 2003, with: Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

CSXT and MMR have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 3, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by June 27, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV.*"

Decided: June 19, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–16045 Filed 6–26–03; 8:45 am]

BILLING CODE 4915–00–P

request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 200X)]

Union Pacific Railroad Company—Abandonment Exemption—in Franklin and Butler Counties, IA

On June 9, 2003, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 to abandon an eastern portion of its Bristow Subdivision rail line, extending from milepost 318.36 near Hampton to milepost 294.75 near Allison, a distance of 23.61 miles, in Franklin and Butler Counties, IA. The line traverses U.S. Postal Service Zip Codes 50441, 50602, and 50625 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 26, 2003.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 17, 2003. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 200X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Mack H. Shumate, Jr., 101 North Wacker Drive, Room 1920, Chicago, IL 60606. Replies to the UP petition are due on or before July 17, 2003.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 23, 2003.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–16306 Filed 6–26–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

President's Commission on the United States Postal Service

AGENCY: Department of the Treasury, Departmental Offices.

ACTION: Notice of meeting.

SUMMARY: Notice is given of a meeting of the President's Commission on the United States Postal Service.

DATES: The meeting will be held on Wednesday, July 16, from approximately 8:30 a.m. to 12 noon EST.

ADDRESSES: The meeting will be held in Room 216 of the Hart Senate Office Building, 2nd and C Streets, NE., Washington, DC 20510.

FOR FURTHER INFORMATION CONTACT: Roger Kodat, Designated Federal Official, (202) 622–7073.

SUPPLEMENTARY INFORMATION: At the public meeting, the Commission will continue its examination of the issues outlined in Executive Order 13278 and will receive the reports of each of the four Commission subcommittees. Seating is limited.

Dated: June 24, 2003.

Roger Kodat,

Designated Federal Official.

[FR Doc. 03–16286 Filed 6–26–03; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Capital City Insurance Company, Inc.

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 20 to the Treasury Department Circular 570; 2002 Revision, published July 1, 2002 at 67 FR 44294.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The company was last listed as an acceptable surety on Federal bonds at 67 FR 44301, July 1, 2002.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570/index.html.* A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F07, Hyattsville, MD 20782.

Dated: June 19, 2003.

Judith R. Tillman,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 03–16245 Filed 6–26–03; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Generali—U.S. Branch

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 19 to the Treasury Department Circular 570; 2002 Revision, published July 1, 2002 at 67 FR 44294.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–1610.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 67 FR 44336, July 1, 2002.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570/index.html.* A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F07, Hyattsville, MD 20782.

Dated: June 19, 2003.

Judith R. Tillman,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 03–16246 Filed 6–26–03; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Name Change—Underwriters Indemnity Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 21 to the Treasury Department Circular 570; 2002 Revision, published July 1, 2002, at 67 FR 44294.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6779.

SUPPLEMENTARY INFORMATION: Underwriters Indemnity Company, a Texas corporation, has formally changed its name to Lexon Insurance Company, effective April 29, 2003. The Company was last listed as an acceptable surety on Federal bonds at 67 FR 44331, July 1, 2002.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to Lexon Insurance Company, Houston, Texas. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriter limitation of $1,434,000 established for the Company as of July 1, 2002, remains unchanged until June 30, 2003.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2002 Revision, at page 44316 to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.* A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and

Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F07, Hyattsville, MD 20782.

Dated: June 19, 2003.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 03–16244 Filed 6–26–03; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the National Book-Entry System

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury is announcing a new fee schedule for the transfer of book-entry securities maintained on the National Book-Entry System (NBES). This fee schedule will take effect on July 1, 2003. The basic fee for the transfer of a Treasury book-entry security will be $.21, a 22 percent fee reduction from fees in effect since January 2, 2003. The Federal Reserve funds movement fee will remain unchanged at $.05. These changes will result in a combined fee of $.26 for a Treasury security transfer.

Off-line transfer fees will remain unchanged.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT: Edward C. Leithead, Director, Primary & Secondary Market Fixed Income Securities (Financing), Bureau of the Public Debt, Suite 3014, 26 Federal Plaza, New York, NY 10278, telephone (212) 264–6358.

John M. Lilly, Financial Systems Analyst, Bureau of the Public Debt, Room 510, 999 E Street, NW., Washington, DC 20239–0001, telephone (202) 691–3550.

SUPPLEMENTARY INFORMATION: On October 1, 1985, the Department of the Treasury established a fee structure for the transfer of Treasury book-entry securities maintained on NBES.

Effective July 1, 2003, the basic fee will be $.21 for each Treasury securities transfer and reversal sent and received, a 22 percent fee reduction from fees in effect since January 2, 2003.

The surcharge for an off-line Treasury book-entry transfer will remain unchanged at $25.00.

The basic transfer fee assessed to both sends and receives is reflective of costs associated with the processing of a security transfer. The off-line surcharge reflects the additional processing costs associated with the manual processing of off-line securities transfers.

The Treasury does not charge a fee for account maintenance, the stripping and reconstituting of Treasury securities, or for wires associated with original issues, or interest and redemption payments. The Treasury currently absorbs these costs and will continue to do so.

The fees described in this notice apply only to the transfer of Treasury book-entry securities held on NBES. The Federal Reserve System assesses a fee to recover the costs associated with the processing of the funds component of Treasury book-entry transfer messages, as well as the costs of providing book-entry services for government agencies on NBES. This fee will remain unchanged from those assessed since January 2, 2003.

The following is the Treasury fee schedule that will take effect on July 1, 2003, for the book-entry transfers on NBES:

TREASURY-NBES FEE SCHEDULE,[1] EFFECTIVE JULY 1, 2003

[In Dollars]

Transfer type	Basic fee	Off-line surcharge	Funds[2] movement fee	Total fee
On-line transfer originated	.21	.00	.05	.26
On-line transfer received	.21	.00	.05	.26
On-line reversal transfer originated	.21	.00	.05	.26
On-line reversal transfer received	.21	.00	.05	.26
Off-line transfer originated	.21	25.00	.05	25.26
Off-line transfer received	.21	25.00	.05	25.26
Off-line account switch received	.21	.00	.05	.26
Off-line reversal transfer originated	.21	25.00	.05	25.26
Off-line reversal transfer received	.21	25.00	.05	25.26

[1] The Treasury does not charge a fee for account maintenance, the stripping and reconstituting of Treasury securities, or the wires associated with original issues, or interest and redemption payments. The Treasury currently absorbs these costs and will continue to do so.

[2] The funds movement fee is not a Treasury fee, but is charged by the Federal Reserve for the cost of moving funds associated with the transfer of a Treasury book-entry security.

Authority: 31 CFR 357.45.

Dated: June 24, 2003.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 03–16318 Filed 6–26–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Education; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Advisory Committee on Education will meet on Tuesday, July 29, 2003, from 7 p.m. to 8:30 p.m.; Wednesday, July 30, 2003, from 8:30 a.m. to 4 p.m.; and Thursday, July 31, 2003, from 8:30 a.m. to 12 p.m.

The meeting on July 29 will be held at the Adam's Mark Hotel, Fourth Street and Chestnut, St. Louis, MO 63102. The meeting on July 30 and 31 will be held at the Department of Veterans Affairs Regional Office, 400 South 18th Street, St. Louis, MO 63103–2271. Both meetings are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of education and training programs for veterans and

servicepersons, reservists and dependents of veterans under Chapters 30, 32, 35, and 36, Title 38, and Chapter 1606 of Title 10, United States Code.

On July 29, the Committee will host a town hall-style meeting with the Association of Veterans Education Certifying Officials. On July 30, the meeting will begin with opening remarks and an overview by Dr. Steve Kime, Committee Chair. In addition, this session will include discussions on pending legislation, results of the means testing meeting with the Department of Education, feedback on the meeting with the Department of Defense Deputy Secretary for Reserve Affairs, and other Reserve issues. During the afternoon session, there will be a tour of the Regional Processing Office operations. On July 31, the Committee will review and summarize current and past issues addressed during this meeting.

Interested persons may file statements with the Committee, in written form, before the meeting or within 10 days after the meeting, by sending them to Mr. Stephen Dillard, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration (225B), 810 Vermont Avenue, NW., Washington, DC. Oral statements will be heard at the Department of Veterans Affairs Regional Office, 400 South 18th Street, St. Louis, MO 63103–2271, on Thursday, July 31, 2003 at 10 a.m. Any member of the public wishing to attend the meeting should contact Mr. Stephen Dillard or Mr. Michael Yunker at (202) 273–7187.

Dated: June 20, 2003.

By Direction of the Secretary:

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 03–16266 Filed 6–26–03; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 68, No. 124
Friday, June 27, 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 LABOR

Mine Safety and Health Administration

30 CFR Parts 71 and 75

RIN 1219—AA98 (Phase 9)

Standards for Sanitary Toilets in Coal Mines

Correction

In rule document 03–15813 beginning on page 37082 in the issue of Monday, June 23, 2003, make the following corrections:

1. On page 37084, in the third column, under the heading *''C. Types of Approved Sanitary Toilets''*, in the sixth line, ''standard[1]'' should read, ''standard.''

2. On the same page, in the table, the heading, ''**Combustion or Incinerating Toilet**,'' should read, ''**Combustion or Incinerating Toilet[1]**.''

[FR Doc. C3–15813 Filed 6–26–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15257; Airspace Docket No. 03–ACE–50]

Modification of Class E Airspace; Cambridge, NE

Correction

In rule document 03–15682 beginning on page 36909 in the issue of Friday, June 20, 2003, make the following correction:

§71.1 [Corrected]

On page 36910, in the second column, in § 71.1, under **ACE NE E5 Cambridge, NE**, in the fourth line, ''Lat. 40°18′25″ N.,'' should read, ''Lat. 40°18′15″ N.,''

[FR Doc. C3–15682 Filed 6–26–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 03-06]

RIN 1557–AC13

Electronic Filings

Correction

Rule document 03–8995, beginning on page 17890 in the issue of Monday April 14, 2003, was inadvertently published in the Proposed Rules section. It should have appeared in the Rules and Regulations section.

[FR Doc. C3–8995 Filed 6–26–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AE91

Schedule for Rating Disabilities; the Musculoskeletal System

Correction

In proposed rule document 03–2119 beginning on page 6998 in the issue of Tuesday, February 11, 2003, make the following correction:

§4.71a [Corrected]

On page 7028, in §4.71a, the table entitled **Multiple Finger Amputations** is corrected to read as set forth below.

Multiple Finger Amputations

Note (1): These ratings apply only to amputations at the proximal interphalangeal joints or through proximal phalanges.
Note (2): Amputation through middle phalanges will be rated as unfavorable ankylosis of the fingers.
Note (3): Except for negligible losses, amputations at distal joints or through distal phalanges will be rated as favorable ankylosis of the fingers.
Note (4): Amputation or resection of more than one-half the metacarpal bones in injuries of multiple fingers will be assigned an evaluation of 10 percent added to (not combined with) the evaluations for multiple finger amputations, subject to the provisions of § 4.68.
Note (5): Combinations of finger amputations at various levels, or finger amputations with ankylosis or limitation of motion of the fingers will be rated on the basis of the grade of disability, *i.e.*, amputation, unfavorable ankylosis, most representative of the levels or combinations. With an even number of fingers involved, and adjacent grades of disability, select the higher of the two grades.

5126	Amputation of five fingers of one hand	[1] 70	[1] 60
	Amputation of four fingers of one hand:		
5127	Thumb, index and ring	[1] 70	[1] 60
5128	Thumb, index and ring	[1] 70	[1] 60
5129	Thumb, index and ring	[1] 70	[1] 60
5130	Thumb, index and ring	[1] 70	[1] 60
5131	Thumb, index and ring	60	50
5132	Thumb, index and ring	60	50
5133	Thumb, index and ring	60	50

5134	Thumb, index and little	60	50
5135	Thumb, long and ring	60	50
5136	Thumb, long and little	60	50
5137	Thumb, ring and little	60	50
5138	Index, long and ring	50	40
5139	Index, long and little	50	40
5140	Index, ring and little	50	40
5141	Long, ring and little	40	30
	Amputation of two fingers of one hand:		
5142	Thumb and index	50	40
5143	Thumb and long	50	40
5144	Thumb and ring	50	40
5145	Thumb and little	50	40
5146	Index and long	40	30
5147	Index and ring	40	30
5148	Index and little	40	30
5149	Long and ring	30	20
5150	Long and little	30	20
5151	Ring and little	30	20

[FR Doc. C3–2119 Filed 6–26–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
June 27, 2003

Part II

Environmental Protection Agency

40 CFR Part 86

Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–7509–8]

RIN 2060–AG13

Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Revisions to Regulations Requiring Availability of Information for Use of On-Board Diagnostic Systems and Emission-Related Repairs on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks and 2005 and Later Model Year Heavy-Duty Vehicles and Engines Weighing 14,000 Pounds Gross Vehicle Weight or Less

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: Today's action finalizes modifications to EPA's Service Information regulations for light-duty vehicles and trucks, including requiring Original Equipment Manufacturers (OEMs) to: make full text emissions-related service information and training information available via the World Wide Web; provide equipment and tool companies with information that allows them to develop equipment with pass-through reprogramming capabilities; make available enhanced diagnostic information to equipment and tool companies; make available OEM-specific diagnostic tools for sale to interested parties and; make available additional OBD technical information that OEMs must provide. In addition, today's final rule extends the availability of emission-related service information to heavy-duty engines and vehicles weighing 14,000 pounds or less beginning in the 2005 model year.

DATES: This final rule takes effect on August 26, 2003. The incorporation by reference of certain publications listed in the rule is approved August 26, 2003.

ADDRESSES: All comments and materials relevant to this rulemaking are contained in EPA Air Docket No. A–2000–49 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on government holidays. You can reach the Reading Room by telephone at (202) 566–1742, and by facsimile at (202) 566–1741. The telephone number for the Air Docket is (202) 566–1742. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT: Holly Pugliese, Certification and Compliance Division, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105, Telephone 734–214–4288, Internet e-mail *''pugliese.holly@epa.gov.''*

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those which manufacturer new motor vehicles and engines. Regulated categories include:

Category	NAICS Codes [1]	SIC codes [2]	Examples of potentially regulated entities
Industry	336111 336112 336120	3711	Motor Vehicle Manufacturers.

[1] North American Industry Classification System (NAICS)
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your product is regulated by this action, you should carefully examine the applicability criteria in § 86.099–17 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular product, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Obtaining Rulemaking Documents Through the Internet

The preamble, regulatory language and regulatory support documents are also available electronically from the EPA Internet Web site. This service is free of charge, except for any cost you already incur for Internet connectivity. The official EPA version is made available on the day of publication on the primary Web site listed below. The EPA Office of Transportation and Air Quality also publishes these notices on the secondary Web site listed below.

(1) *http://www.epa.gov/docs/fedrgstr/EPA–AIR/* (either select desired date or use Search feature)

(2) *http://www.epa.gov/OTAQ/* (look in ''What's New'' or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

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I. What Is the Important Background Information for This Final Rule?

Section 202(m)(5) of the CAA directs EPA to promulgate regulations requiring OEMs to provide to:

> any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, and the Administrator for use by any such persons, * * * any and all information needed to make use of the [vehicle's] emission control diagnostic system * * * and such other information including instructions for making emission-related diagnoses and repairs. Such requirements are subject to the requirements of section 208(c) regarding protection of trade secrets; however, no such information may be withheld under section 208(c) if that information is provided (directly or indirectly) by the manufacturer to its franchised dealers or other persons engaged in the repair, diagnosing or servicing of motor vehicles.

On August 9, 1995, EPA published a final rulemaking (60 FR 40474) which set forth the Agency's service information regulations. These regulations, in part, required each Original Equipment Manufacturer (OEM) to do the following: (1) List all of its emission-related service and repair information on a Web site called FedWorld (including the cost of each item and where it could be purchased); (2) either provide enhanced information to equipment and tool companies or make its OEM-specific diagnostic tool available for purchase by aftermarket technicians, and (3) make reprogramming capability available to independent service and repair professionals if its franchised dealerships had such capability. These requirements were intended to ensure that aftermarket service and repair facilities have access to the same emission-related service information, in the same or similar manner, as that provided by OEMs to their franchised dealerships.

Industry estimates indicate that independent technicians perform up to 80% of all vehicle service and repairs. Further, independent technicians perform more repairs on older vehicles (which are more likely than newer vehicles to have high emissions) than technicians in franchised dealerships. These conclusions are confirmed by statistics issued from the Motor and Equipment Manufacturers Association (Automotive Industry Status Report, 1999. EPA Air Docket A–2000–49, item II–F–05) that (1) the level of excess emissions increases as a vehicle's mileage increases, and (2) the percentage of non-dealer repairs increased and dealer repairs decreased as a vehicle's mileage increased and warranty coverage is no longer an issue.

In addition, OEM comments submitted during the comment period for the prior service information proposal (56 FR 48278, September 24, 1991) spoke to the integral role aftermarket technicians play in servicing the approximately 200 million vehicles in use. Many OEMs indicated that the number of service bays in their franchised dealerships are inadequate to service their fleets of vehicles and that they depend on aftermarket technicians to provide service for their customers' vehicles, especially for those vehicles out of warranty (See ''Response to Comments'' document for the August 1995 Final Rule, Docket A–90–35, Item V–C–02). This further highlights the need for independent technicians to have access to timely and appropriate emission-related repair and service information.

Since 1995, the Agency has gained experience in the implementation of the service information requirements. Additionally, changing technology has made it necessary to revisit the current requirements to take advantage of advanced technology.

As a result of our experience in implementing the 1995 regulations, EPA proposed revisions to those regulations on June 8, 2001 (66 FR 30830). The proposal highlighted several main areas for revision. First, we proposed that OEMs make full text emissions-related service information available via the World Wide Web. Second, we proposed that OEMs provide equipment and tool companies with information that allows them to develop pass-through reprogramming tools. Third, we proposed that OEMs make available enhanced diagnostic information to equipment and tool manufacturers and to make available OEM-specific diagnostic tools for sale. In addition, we proposed extending the service information requirements to the availability of emission-related service information for heavy-duty vehicles up to 14,000 pounds.

Today's final regulations are intended to preserve freedom of choice by consumers in where to have their vehicles serviced.

II. What Are the Requirements of This Final Rule?

A. What Information Is Required To Be Made Available by OEMs Under This Final Rule?

Today's action finalizes a provision that requires OEMs to make available to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines all information necessary to make use of the OBD systems and any information for making emission-related repairs, including any emissions-related information that is provided by the OEM to franchised dealers. This information includes, but is not limited to, the following:

(1) Manuals, technical service bulletins (TSBs), diagrams, and charts (the provisions for training materials, including videos and other media are discussed in Section IIIB).

(2) A general description of the operation of each monitor, including a description of the parameter that is being monitored.

(3) A listing of all typical OBD diagnostic trouble codes associated with each monitor.

(4) A description of the typical enabling conditions for each monitor to execute during vehicle operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup.

(5) A listing of each monitor sequence, execution frequency and typical duration.

(6) A listing of typical malfunction thresholds for each monitor.

(7) For OBD parameters that deviate from the typical parameters, the OBD description shall indicate the deviation for the vehicles it applies to and provide a separate listing of the typical values for those vehicles.

(8) Identification and scaling information necessary to interpret and understand data available to a generic scan tool through ''mode 6,'' pursuant to Society of Automotive Engineers SAE J1979, EE Diagnostic Test Modes.

(9) Any information related to the service, repair, installation or replacement of parts or systems developed by third party (Tier 1) suppliers for OEMs, to the extent they are made available to franchise dealerships.

(10) Any information on other systems that can directly effect the emission system within a multiplexed

system (including how information is sent between emission-related system modules and other modules on a multiplexed bus),

(11) Any information regarding any system, component, or part of a vehicle monitored by the OBD system that could in a failure mode cause the OBD system to illuminate the malfunction indicator light (MIL).

(12) Any other information relevant to the diagnosis and completion of an emissions-related repair. This information includes, but is not limited to, information needed to start the vehicle when the vehicle is equipped with an anti-theft or similar system that disables the engine described below in paragraph (13). This information also includes any OEM-specific emissions-related diagnostic trouble codes (DTCs) and any related service bulletins, trouble shooting guides, and/or repair procedures associated with these OEM-specific DTCs.

(13) OEMs shall make available computer or anti-theft system initialization information necessary for the proper installation of on-board computers on motor vehicles that employ integral vehicle security systems or the repair or replacement of any other emission-related part. OEMs are not required to make this information available on the OEM's Web site unless they choose to do so. However, the OEM's Web site shall contain information on alternate means for obtaining the information and/or ability to perform reintialization. Beginning with the 2008 model year, we require that all OEM systems will be designed in such a way that no special tools or processes will be necessary to perform re-initialization. In other words, EPA expects that the re-initialization of vehicles can be completed with generic aftermarket tools, a pass-through device, or an inexpensive OEM-specific cable. This model year cut-off is consistent with the requirement to complete the phase-in of the SAE J2284–3 CAN requirement as discussed in section 18 of this document. An OEM may request Administrator approval for an alternative means to re-initialize vehicles for some or all model years through the 2007 model year. The complete regulatory requirements for requesting approval can be found in Sections 86.096–38(g)(6) and 86.1808–01(f)(6).

Information for making emission-related repairs does not include information used to design and manufacture parts, but may include OEM changes to internal calibrations, and other indirect information, as discussed below.

We also believe that OEMs are accountable for the accuracy of their service information, for both their dealerships and the aftermarket repair industry. Moving toward Internet-based delivery of service information should increase the ability of OEMs to more quickly respond to errors in their service information and provide updates to the required information for all interested parties in a timely manner.

B. What Are the Requirements for Web-Based Delivery of the Required Information Under This Final Rule?

1. OEM Web Sites

Today's action finalizes a provision that requires OEMs to make available in full-text all of the information outlined above, on individual OEM Web sites. The only exceptions to the full-text requirements are training information, anti-theft information, and indirect information. Provisions for the availability of training information is discussed in section II(D) of this document. Provisions for the availability of anti-theft information is discussed in section II.A(13). Provisions regarding indirect information are discussed in section II.E through II.I of this document. OEM Web sites must be launched six months after the date of publication of this rulemaking. OEMs may request from the Administrator up to an additional six months to launch their Web sites.

2. Timeliness and Maintenance of Information on OEM Web Sites

Today's action finalizes a provision that requires OEMs to make available the required information on their Web site within six months of model introduction. After this six month period, the required information for each model must be available and updated on the OEM Web site at the same time it is available by any means to their dealers.

EPA is also finalizing a provision that, beginning with the 1996 model year, OEMs maintain the required information in full text for at least 15 years after model introduction. After this fifteen-year period, OEMs can archive the required service information, but it must be made available upon request, in a format of the OEM's choice (*e.g.* CD–ROM).

3. Accessibility, Reporting and Performance Requirements for OEM Web Sites

(a) Accessibility Requirements. EPA is finalizing the following provisions for accessibility to OEM Web sites. Each OEM shall:

(1) Provide users with a description of the minimum computer hardware and software needed by the user to access that OEM's information (*e.g.*, computer processor speed and operating system software). This description shall appear when users first log-on to the home page of the OEM's Web site.

(2) Allow the user to search the OEM Web site by various topics including but not limited to model, model year, key words or phrases, etc., while allowing ready identification of the latest vehicle calibration. OEMs who do not use model year to classify their vehicles in their service information may use an alternate vehicle delineation such as body series. Any OEM utilizing this flexibility shall create a cross-reference to the corresponding model year and provide this cross-reference on the OEM Web site home page.

(3) Provide accessibility using common, readily available software and shall not require the use of proprietary software, hardware, viewers, or browsers. The OEM Web site shall also provide hyperlinks to any plug-ins, viewers or browsers (*e.g.* Adobe Acrobat or Netscape) needed to access the OEM Web site.

(4) Allow access to the OEM Web sites with no limits on the modem speed by which aftermarket service providers or other interested parties can connect to the OEM Web site.

(b) Performance and Reporting Requirements. Today's action finalizes a provision that requires OEMs to report on the performance of their Web sites. OEMs shall monitor the following parameters:

(1) Total successful requests (measured in number of files including graphic interchange formats (GIFs) and joint photographic expert group (JPEG) images, *i.e.,* electronic images such as wiring or other diagrams or pictures). This is defined as the total successful request counts of all the files which have been requested, including pages, graphics, etc.

(2) Total failed requests (measured in number of files). This is defined as the total failed request counts of all the files which were requested but failed because they could not be found or were read-protected. This includes pages, graphics, etc.

(3) Average data transferred per day (measured by bytes). This is defined as average amount of data transferred per day from one place to another.

(4) Daily Summary (measured in number of files/pages by day of week). This is defined as the total number of requests each day of the week, over the time period given at the beginning of the report.

(5) Daily report (measured in number of files/pages by the day of the month). This is defined as how many requests there were in each day of a specific month.

(6) Browser Summary (measured in number of files/pages by browser type, *i.e.*, Netscape, Internet Explorer). This is defined as the versions of a browser by vendor.

(7) Any other information deemed necessary by the Administrator to determine the adequacy of an OEM Web site.

OEMs may request Administrator approval to report on parameters other than those described above if the OEM can demonstrate that those alternate parameters will provide sufficient and similar information for EPA to effectively evaluate the OEM Web site.

EPA will work with OEMs and issue further guidance regarding requirements to outline a consistent format and timing of submission.

Performance reports will be submitted to the Administrator annually or upon request by the Administrator. EPA will issue additional direction in the form of official manufacturer guidance to further specify the process for submitting reports to the Administrator.

In addition, EPA is finalizing a provision that requires OEMs to launch Web sites that meet the following performance criteria:

(1) OEM Web sites shall possess sufficient server capacity to allow ready access by all users and have sufficient downloading capacity to assure that all users may obtain needed information without undue delay;

(2) Broken Web links shall be corrected or deleted weekly;

(3) Web site navigation does not require a user to return to the OEM home page or a search engine in order to access a different portion of the site.

4. Structure and Cost of OEM Web Sites

In addition to the requirements described above in section II.3, OEMs shall also establish a three-tiered approach for the access to their Web-based service information. These three tiers include, but are not limited to short-term, mid-term, and long-term access to the required information.

(1) Short-Term Access. OEMs shall provide short-term access for a period of 24–72 hours whereby an aftermarket service provider will be able to access that OEM's Web site, search for the information they need, and purchase and/or print it for a set fee.

(2) Mid-Term Access. OEMs shall provide mid-term access for a period of 30 days whereby an aftermarket service provider will be able to access that OEM's Web site, search for the information they need, and purchase and/or print it for a set fee.

(3) Long-Term Access. OEMs shall provide long-term access for a period of 365 days whereby an aftermarket service provider will be able to access that OEM's Web site, search for the information they need, and purchase and/or print it for a set fee.

In addition, for each of the tiers, OEMs are required to make their entire site accessible for the respective period of time and price. In other words, an OEM may not limit any or all of the tiers to just one make or one model.

EPA is not finalizing a provision that would require OEM's to allow for the downloading of information from their sites.

With regard to the issue of cost, EPA will not be finalizing any price caps for access to each of the tiers described above. However, prior to the official launch of OEM Web sites, each OEM will be required to present to the Administrator a specific outline of what will be charged for access to each of the tiers. OEMs must justify these charges, and submit to the Administrator information on the following parameters, which include but are not limited to, the following:

1. The price the manufacturer currently charges their branded dealers for service information. At a minimum, this must include the direct price charged that is identified exclusively as being for service information, not including any payment that is incorporated in other fees paid by a dealer, such as franchise fees. In addition, the manufacturer must describe the information that is provided to dealers, including the nature of the information (*e.g.*, the complete service manual), etc.; whether dealers have the option of purchasing less than all of the available information, or if purchase of all information is mandatory; the number of branded dealers who currently pay for this service information; and whether this information is made available to any persons at a reduced or no cost, and if so, identification of these persons and the reason they receive the information at a reduced cost.

2. The price the manufacturer currently charges persons other than branded dealers for service information. The manufacturer must describe the information that is provided, including the nature of the information (*e.g.*, the complete service manual, emissions control service manual), etc.; and the number of persons other than branded dealers to whom the information is supplied.

3. The estimated number of persons to whom the manufacturer would be expected to provide the service information following implementation of today's requirements. If the manufacturer is proposing a fee structure with different access periods (*e.g.*, daily, monthly and annual periods), the manufacturer must estimate the number of users who would be expected to subscribe for the different access periods.

A complete list of the criteria for establishing reasonable cost can be found in sections 86.094–38, paragraph (g)(7) and 86.1808–01, paragraph (f)(7) of the regulatory language for this final rule. Subsequent to the launch of the OEM Web sites, OEMs are required to notify the Administrator upon the increase in price of any one or all of the tiers of twenty percent or more accounting for inflation or that sets the charge for end-user access over the established price guidelines discussed above, including a justification based on the criteria for reasonable cost as established by this regulation.

5. Hyperlinking To and From OEM Web Sites

Today's action finalizes a provision that requires OEMs to allow direct simple hyperlinking to their Web sites from government Web sites and from all automotive-related Web sites, such as aftermarket service providers, educational institutions, and automotive associations.

6. Administrator Access to OEM Web Sites

Today's action finalizes a provision that requires that the Administrator shall have access to each OEM Web site at no charge to the Agency. The Administrator shall have access to the site, reports, records and other information as provided by sections 114 and 208 of the Clean Air Act and other provisions of law.

7. Information for Pre-1996 Model Years on OEM Web Sites

Today's action finalizes a provision that each OEM shall index their available information for model years 1994 and 1995 with a title that adequately describes the contents of the document to which it refers. OEMs may develop a system that allows interested parties to order this information directly from their Web site, or another Web site hyperlinked to the OEM Web site. Any OEM who does not develop such a system must list a phone number and address where aftermarket service providers can call or write to obtain the desired information. OEMs must also

provide the price of each item listed, as well as the price of items ordered on a subscription basis. To the extent that any additional information is added or changed for these model years, OEMs shall update the index as appropriate. OEMs will be responsible for ensuring that their information distributors do so within one regular business day of receiving the order. Items that are less than 20 pages (*e.g.* technical service bulletins) shall be faxed to the requestor and distributors are required to deliver the information overnight if requested and paid for by the ordering party. Archived information must be made available upon demand at a fair and reasonable price.

8. Other Media

We are finalizing this provision as proposed which requires OEMs to make available for ordering the required information in some format approved by the Administrator directly from their Web site after the required full-text window of 15 years has expired. Each OEM shall index their available information with a title that adequately describes the contents of the document to which it refers. In the alternate, OEMs may allow for the ordering of information directly from their Web site, or from a Web site hyperlinked to the OEM Web site. OEMs are required to list a phone number and address where aftermarket service providers can call or write to obtain the desired information. OEMs must also provide the price of each item listed, as well as the price of items ordered on a subscription basis. To the extent that any additional information is added or changed for these model years, OEMs shall update the index as appropriate. OEMs will be responsible for ensuring that their information distributors update information within one regular business day of receiving the updated information for the index. Items are less than 20 pages (*e.g.* technical service bulletins) shall be faxed to the requestor and distributors are required to deliver the information overnight if requested and paid for by the ordering party.

9. Small Volume Provisions for OEM Web Sites

Today's action finalizes a provision that requires OEMs who are issued certificates of conformity with annual sales of less than one thousand vehicles are exempt from the full-text Internet requirements, provided they present to the Administrator and obtain approval for an alternative method by which emissions-related information can be obtained by the aftermarket or other interested parties.

These small-volume flexibilities are limited to the distribution and availability of service information via the World Wide Web under paragraph (3) of the regulations. All OEMs, regardless of volume, must comply with all other provisions as finalized in this rulemaking.

C. What Provisions Are Being Finalized for Service Information for Third Party Information Providers?

Today's action finalizes a provision that will require OEMs who currently have, or in the future engage in, licensing or business arrangements with third party information providers, as defined in the regulations, to provide information to those parties in an electronic format in English that utilizes non-proprietary software. Because of the timing of the finalization of this rule, information will have already been transmitted to third party information providers for the 2002, and probably the 2003 model years. Therefore, this provision applies to information for models 2004 and later. Any OEM licensing or business arrangements with third party information providers are subject to fair and reasonable cost requirements. We expect that OEMs will develop pricing structures for access to this information that make it affordable to any third party information providers with which they do business.

D. What Requirements Are Being Finalized for the Availability of Training Information?

1. Purchase of Training Materials for OEM Web Sites

Today's action finalizes two provisions for access to OEM training on OEM Web sites. First, OEMs will be required to make available for purchase on their Web sites the following items: training manuals, training videos, and interactive, multimedia CD's or similar training tools available to franchised dealerships. Second, we are finalizing a provision that OEMs who transmit emissions-related training via satellite or the Internet must tape these transmissions and make them available for purchase on their Web sites within 30 days after the first transmission to franchised dealerships. Further, all of the items included in this provision must be shipped within 24 hours of the order being placed and are to be made available at a reasonable price. We understand OEM concerns about the potential for increased demand of OEM training materials once the indices are posted on Web sites. Therefore, we will also finalize a provision that will allow for an exception to the 24 hour shipping requirement in those circumstances where orders exceed supply and additional time is needed by the distributor to reproduce the item being ordered. These requirements apply for 1996 and later model year vehicles starting 4 months following the effective date of the Final Rule. For subsequent model years, the required information must be made available for purchase within three months of model introduction, and then be made available at the same time it is made available to franchised dealerships.

2. Third Party Access to OEM Training Material

We will finalize a provision that will require OEMs who utilize Internet and satellite transmissions to present emissions-related training to their dealerships to make these same transmissions available to third party training providers. In this way, we believe we are providing at least one opportunity for aftermarket technicians to receive similar emissions-related training information as provided to dealerships, thus furthering the goals and letter of section 202(m)(5). This requirement only requires OEMs to provide the same information to legitimate aftermarket training providers as is provided to dealerships and aftermarket service providers. It is not a requirement to license OEM copyrighted materials to these entities.

OEMs may take reasonable steps to protect their copyright to the extent some or all of this material may be copyrighted and may refuse to do business with any party that does not agree to such steps. However, we do expect OEMs to use fair business practices in its dealings with these third parties, in keeping with the ''fair and reasonable price'' requirements in these regulations. OEMs may not charge unreasonable up-front fees for access to these transmissions, but OEMs may require a royalty, percentage or other arranged fee based limits on a per-use or enrollment subscription basis.

E. What Requirements Are Being Finalized for the Reprogramming of Pre-SAE J2534 Model Year Vehicles?

Today's action finalizes a provision that allows OEMs to use J2534 technology on 1996 through 2003 model year vehicles as long as OEMs make all necessary additional hardware (*i.e.* cables) available for sale at a fair and reasonable price to the aftermarket to allow for the reprogramming of these vehicles. OEMs must make this additional hardware available for sale independently and cannot require the purchase of their OEM specific scan tool

in order to receive this additional hardware. If an OEM cannot retroactively implement the SAE J2534 pass-through reprogramming solution with or without special cables, they must make available to equipment and tool companies any information needed to develop aftermarket equivalents of their OEM-specific reprogramming hardware and software. This information must be provided to allow equipment and tool manufacturers to develop hardware and software equivalents to enhanced OEM scan tools. A full description of the information that must be provided under this scenario is described in sections 86.096–38g(11) and 86.1808–01(f)(11) of the regulatory language for this rulemaking.

F. What Requirements Are Being Finalized for Reprogramming of Vehicles With SAE J2534?

EPA will finalize a provision that will require OEMs to comply with SAE J2534 for pass-through reprogramming beginning with model year 2004.We will also finalize a provision that will require that reprogramming information be made available within one month after the effective date of the final rule for existing model years and within 3 months of vehicle introduction for new models. Any OEM who cannot comply with SAE J2534 in model year 2004 may request one year additional lead time from the Administrator.

G. What Requirements Are Being Finalized for the Availability of Reprogramming Capabilities From OEM Dealerships?

EPA will not finalize a provision that would require OEMs to make reprogramming services available to aftermarket service providers in a timely manner and a reasonable cost via their dealerships.

H. What Requirements Are Being Finalized for the Availability of Enhanced Information for Scan Tools for Equipment and Tool Companies?

1. Description of Information That Must Be Provided

Today's action finalizes a provision that requires the OEMs to make available to equipment and tool companies all generic and enhanced information, including bi-directional control and data stream information.In addition, OEMs must make available the following information:

(a) The physical hardware requirements for data communication (*e.g.* system voltage requirements, cable terminals/pins, connections such as RS232 or USB, wires, *etc.*)

(b) ECU data communication (*e.g.* serial data protocols, transmission speed or baud rate, bit timing requirements, etc.),

(c) Information on the application physical interface (API) or layers. (*i.e.*, processing algorithms or software design descriptions for procedures such as connection, initialization, and termination)

(d) Vehicle application information or any other related service information such as special pins and voltages or additional vehicle connectors that require enablement and specifications for the enablement.

(e) Information that describes which interfaces, or combinations of interfaces, from each of the categories as described in paragraphs (g)(12)(vii)(A) through (D) of the regulatory language.

2. Distribution of Enhanced Diagnostic Information

Today's action finalizes a provision that will require the above information for generic and enhanced diagnostic information be provided to aftermarket tool and equipment companies with whom appropriate licensing, contractual, and confidentiality agreements have been arranged. This information shall be uploaded in electronic format using common document formats such as Microsoft Excel, Adobe Acrobat, Microsoft Word, etc. Further, any OEM licensing or business arrangements with equipment and tool companies are subject to a fair and reasonable cost determination.

I. What Requirements Are Being Finalized for the Availability of OEM-Specific Diagnostic Scan Tools and Other Special Tools?

1. Availability of OEM-Specific Diagnostic Scan Tools

Today's action finalizes a provision that OEMs must make available for sale to interested parties the same OEM-specific scan tools that are available to franchised dealerships, except as discussed below. These tools shall be made available at a fair and reasonable price. These tools shall also be made available in a timely fashion either through the OEM Web site or through an OEM-designated intermediary.

2. Decontenting of OEM-Specific Diagnostic Scan Tools

Today's action finalizes a provision that requires OEMs who opt to remove non-emissions related content from their OEM-specific scan tools and sell them to the persons specified in paragraph (g)(2)(i) and (f)(2)(i) of the regulatory language for this final rule shall adjust the cost of the tool accordingly lower to reflect the decreased value of the scan tool.All emissions-related content that remains in the OEM-specific tool shall be identical to the information that is contained in the complete version of the OEM-specific tool. Any OEM who wishes to implement this option must request approval from the Administrator prior to the introduction of the tool into commerce.

3. Availability of Special Tools

Today's action finalizes a provision that precludes OEMs from using special tools to extinguish the malfunction indicator light (MIL) beginning with model year 2004. For model years 1994 through 2003, OEMs who currently require such tools to extinguish the MIL must release the necessary information to equipment and tool companies to design a comparable generic tool. This information shall be made available no later than one month following the effective date of the Final Rule.

J. Which Reference Materials Are Being Finalized for Incorporation by Reference?

Today's action will finalize a provision requiring that OEMs comply with the following SAE Recommended Practices.

(1) SAE Recommended Practice J1930 (Revised, May, 1998), ''Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms'' beginning with the 2003 model year.

(2) SAE Recommended Practice J1979 (September, 1997), ''EE Diagnostic Test Modes'' Manufacturers shall comply with J1979 beginning with Model Year 2004.

(3) SAE Recommended Practice J2284–3 (May, 2001), ''High Speed CAN (HSC) for Vehicle Applications at 500 KBPS.'' For purposes of consistency with CARB requirements for CAN, we will finalize a provision that allows for the use of CAN beginning in the 2003 model year, with complete implementation required by the 2008 model year.

(4) SAE Recommended Practice J2534 (February, 2002), ''Recommended Practice for Pass-Thru Vehicle Reprogramming''. EPA will require that OEMs comply with SAE J2534 beginning with the 2004 model year.

These documents have been approved for Incorporation by Reference by the Office of the Federal Register on August 26, 2003. A copy of the approval can be found in EPA Air Docket A–2000–49,

Item # IV–H–05. Copies of the SAE documents are also available for viewing in EPA Air Docket A–2000–49.

K. What Requirements Are Being Finalized for the Availability of Heavy-Duty Service Information?

Today's action will finalize a provision that requires that OEMs of heavy-duty vehicles and engines up to 14,000 pounds GVW that are subject to OBD requirements meet the service information requirements beginning with model year 2005.

We will not extend these requirements to heavy-duty vehicles above 14,000 pounds at this time, because such vehicles are not subject to OBD requirements and because the differences between the service industry for such trucks make extension of the regulations for such trucks inappropriate without significant further discussion.

III. What Is the Cost of This Final Rule?

This Final Rulemaking alters existing provisions by revising the current service information regulations. The provisions finalized in today's rulemaking require OEMs to make available information and tools that have already been developed for use by their dealerships. Therefore, EPA believes that the changes finalized today put little or no new additional requirements on OEMs beyond administrative costs for providing access to existing information and tools, which are recoverable to the OEM as discussed below in Section V.D and in the Summary and Analysis of Comments.

IV. What Were the Opportunities for Public Participation?

On July 25, 2001, a public hearing was held. The public comment period was open until August 25, 2001. Comments were received from OEMs and their associations, aftermarket service providers and their trade associations, motor vehicle dealerships, state agencies, and private individuals. Because of the scope of the issues involved and raised by these comments, the following sections only briefly summarize comments on the major issues. For the complete response to comments, see the Response to Comments contained in EPA Air Docket A–2000–49, Item V–C–01.

V. What Were the Major Comments Received on the Proposed Rule?

Comments on a wide range of issues concerning the proposed service information requirements were received. Summarized here are the comments concerning the major or controversial issues and the rationale behind EPA's final decisions. These issues are considered in more detail in the Summary and Analysis of Comments document prepared for this final rule and included in the docket noted earlier. Also in the Summary and Analysis of Comments document is consideration of other issues whose resolution is reflected in this final rule.

A. Required Information

(1) Summary of Proposal

EPA proposed in its general requirements in paragraph (2) of the regulations that OEMs shall furnish or cause to be furnished to service and repair facilities ''any and all information needed to make use of the on-board diagnostic system and such other information, including instructions for making emission-related diagnosis and repairs, including but not limited to service manuals, technical service bulletins, recall service information, data stream information, bi-directional control information, and training information * * *'' EPA proposed in paragraph (5) of the regulations a specific list of the information that OEMs would be required to make available on their OEM-specific Web sites. In particular, EPA proposed to require the availability of OBD generic drive cycle information, component operating ranges, and system logic flow diagrams.

(2) Summary of Comments

With regard to OBD generic drive cycles, the Alliance of Automobile Manufacturers (the Alliance), the Association of International Automobile Manufacturers (AIAM), and BMW commented that the term ''OBD generic drive cycle information was not defined in the proposal. They are also concerned about operating the vehicle safely when attempting to ensure the monitors operated. The Alliance and AIAM commented that OEMs have agreed to provide a drive cycle for each major monitor, which should provide sufficient information to allow a service provider to determine if the monitors have been run over the drive cycle specified for that monitor. Further, the Alliance and AIAM commented that a service provider could operate all of the individual monitors over all of the cycles provided to ensure that all of the monitors have operated.

Several aftermarket service providers commented that both vehicle specific and generic OBD drive cycles be made available.

The Speciality Equipment Manufacturers Association (SEMA) commented that it is in the best interest of consumers and independent service providers for drive cycle information to be provided by each OEM. SEMA also commented that drive cycle information is necessary to set inspection and maintenance (I/M) readiness codes and therefore is crucial information for customer convenience and acceptance of OBD checks in I/M lanes. Additionally, SEMA commented that they do not agree with OEM comments that drive cycles should only be made available for each monitor. SEMA commented that it is necessary for each OEM to provide a consolidated drive cycle to reliably set all readiness codes in addition to providing generic drive cycles for each monitor.

The Equipment and Tool Institute (ETI) commented that they agree with the Alliance and AIAM recommendation that EPA revise the language to refer to monitor specific generic drive cycle versus an overall generic drive cycle.

With regard to OBD system operational information, the Alliance and AIAM commented extensively on EPA's proposal to make available OBD system operational information. First, the Alliance and AIAM commented that EPA's claims that some OEMs do not make adequate OBD information available to the aftermarket is unsubstantiated. The Alliance and AIAM further commented that OEMs have ''huge motivation'' to ensure that their service information meets the needs of both the dealership and the aftermarket. Second, the Alliance and AIAM commented that the Clean Air Act does not give EPA the authority to dictate the content of OEM service information. The Alliance and AIAM further commented that OEMs make available to the aftermarket all of the diagnostic information that is made available to their dealers which has been structured in such a way to lead service technicians through the diagnostic process. Third, the Alliance and AIAM commented that EPA does not indicate the purpose or need for requiring every component operating range and that this type of information is not needed in all cases to make emissions-related repairs, and that providing such information could be a huge task. Fourth, the Alliance and AIAM comment that some OEMs consider OBD system logic flow diagrams to be proprietary information because they can contain algorithms specific to an OEM. Lastly, the Alliance and AIAM commented that in the recent Service Information proposal issued by

the California Air Resources Board (CARB), it was proposed that OEMs make available a general description of their OBD systems which includes a general description of the operation of each monitor and the parameters that are being monitored. CARB also proposed that additional information be made available such as diagnostic codes associated with each monitor; typical enable conditions for the monitors; a general sequence of events, execution frequency and duration; and typical malfunction thresholds. The Alliance and AIAM commented that this type of information is sufficient to service OBD related problems and to go beyond what CARB has proposed is unnecessary. The Alliance and AIAM commented that EPA should adopt requirements consistent with those proposed by CARB.

The Westchester/Putnam chapter of the Service Technicians Society commented that information such as system logic, including monitor strategies, related components by each monitor and range/response times for sensor inputs need to be made available to aftermarket service providers. Additionally, they commented that information on parameters for all sensors and actuators is also needed by aftermarket service providers.

The Speciality Equipment Manufacturers Association (SEMA) commented that they would support a provision that would require OEMs to provide general information on each significant component of the OBD system. SEMA further commented that a description of typical values under operating conditions is feasible and that it is reasonable for OEMs to consolidate this type of information in a generic manner to assist technicians in identifying a malfunctioning component without having to purchase an OEM specific scan tool. SEMA also commented that they support the availability of system diagrams and basic descriptions of OBD system monitoring.

BMW submitted written comments supporting the comments of the Alliance and AIAM on requiring OBD system operational information. BMW commented that they would support provisions that mirror those proposed by the California Air Resources Board (CARB) which require OEMs to make available general descriptions of OBD system information rather than the specific list proposed by EPA.

A consortium of aftermarket groups (the ''Aftermarket Consortium'') stated its support for a provision that would require OEMs to make available OBD system operational information, regardless of whether or not they currently make this information available to their dealerships. They further commented that the Clean Air Act does not limit the information which must be provided to that which is furnished to dealers. The Associations also commented that this type of information needs to be made available to the aftermarket from all OEMs to ensure the proper diagnosis and repair of OBD equipped vehicles. Finally, the Associations commented that independents often fix used part or replace a malfunctioning part with a used or rebuilt part in making repairs. In doing so, they may have to adjust the functioning of such parts to meet OBD parameters. Therefore, OBD system information is needed in these circumstances.

The Service Technicians Society (STS) commented in their written submission that generic drive cycles, component operating ranges and system logic flow diagrams are important pieces of information for the emissions repair process. STS further commented that current availability of this type of information varies among OEMs and is not easily available in some cases. Without this type of information, technicians must use their best judgement, or sometimes even guess at the appropriate solution, which increases the time and cost of repairs. STS is concerned that access to this level of information is necessary to avoid customer frustration and to increase the perception of automotive aftermarket service providers as competent professionals.

In their written submission, ETI commented that OEM repair information can sometimes be inadequate despite the claims of the Alliance and AIAM. Many OEM repair procedures call for the temporary substitution of a known good part which can only be purchased from a dealer. However, simply replacing the part may not solve the problem. If it is an electrical part, the dealer may not take it back. ETI states that this type of repair information is not adequate by anybody's standards. Therefore, the aftermarket technician must have the information requested in order to conduct pinpoint tests and determine whether the part in question is working without using the substitution process.

EPA Decision: EPA agrees with comments that it is appropriate to more specifically define the ''OBD Generic Drive Cycle'' information. Therefore, EPA is finalizing a provision that requires OEMs to make available monitor-specific drive cycles for all major OBD monitors as equipped including, but not limited to catalyst, catalyst heater, oxygen sensor, oxygen sensor heater, evaporative system, exhaust gas re-circulation (EGR) secondary air, and a/c system. Additionally, for diesel vehicles under 14,000 pounds GVWR which also perform misfire, fuel system and comprehensive component monitoring under specific driving conditions (*i.e.*, non-continuous monitoring; as opposed to spark ignition engines that monitor these systems under all conditions or continuous monitoring), the OEM shall make available monitor-specific drive cycles for these monitors. We will also finalize a provision that will require any OEMs who develop generic drive cycles, either in addition to, or instead of, monitor-specific drive cycles to also make these available in full-text on OEM Web sites.

With regard to OBD system operational information, EPA disagrees with the Alliance and AIAM comments that EPA has not substantiated that some OEMs do not make adequate information available to the aftermarket. While EPA agrees that it would seem that OEMs have a ''huge motivation'' to ensure that sufficient information is available to both dealership and aftermarket technicians, we believe that there are numerous examples of information gaps of which the OEMs are aware. Aside from the analysis of OEM service manuals conducted by EPA which can be found in the docket (Air Docket A–2000–49, item II–B–01, ''Memo from Shannon Elliot to Holly Pugliese and Arvon Mitcham—Analysis of OEM Service Manuals'', March 10, 2000), EPA has participated in numerous meetings and conferences with aftermarket service providers and OEMs for discussions solely focused on acknowledged gaps in OEM information. Additionally, sources such as the International Automotive Technicians Network (iATN) and the Service Technicians Society (STS) have provided numerous examples of both dealership and aftermarket technician difficulties in finding enough information to service some particular OEM makes and models. A compilation of some of the complaints that have been documented can be found in EPA Air Docket A–2000–49, Item #IV–H–03.

EPA also disagrees that it does not have the authority under the Clean Air Act to compel the distribution of relevant service information. EPA agrees with the comments submitted by MEMA, *et al.* that the Clean Air Act does not limit the information that must be provided to that which is made available to dealerships. While it is clear that under section 202(m)(5), the

aftermarket should *at a minimum* have access to the same information as dealerships, section 202(m)(5) does not preclude EPA from requiring OEMs to provide additional information to be made available to both dealerships and the aftermarket. Nothing in section 202(m)(5) of the Clean Air Act makes reference to limiting information availability to that which is made available to dealerships. On the contrary, section 202(m)(5) requires OEMs to provide ''any and all'' information needed to use the OBD system and ''such other information including instructions for making emission related diagnosis and repairs,'' including at a minimum all information given to dealerships. EPA is instructed by section 202(m)(5) to promulgate regulations requiring OEMs to provide such information. EPA has broad authority to require all information needed to use the OBD system and make emission related diagnosis and repairs, including requiring OEMs to provide specific information needed for emission related diagnosis and repairs.

Regarding the comments submitted by the Alliance and AIAM and BMW that the proposal goes beyond EPA's authority and may very well require the release of proprietary OEM calibrations, EPA appreciates the concerns of these commenters. It was not EPA's intent to require any information that would be considered a trade secret or would jeopardize the integrity of the OBD system. We believed that the general language in the proposal regarding what would be considered OBD system operational information would be sufficient to express the level of information EPA believes is needed to be made available from all OEMs without jeopardizing OEM proprietary information. EPA also agrees with the comments of the Alliance, AIAM, and BMW that the OBD system descriptors required by the service information regulations finalized by the California Air Resources Board provide a sufficient list of the types of OBD diagnostic information needed to service and repair OBD-equipped vehicles and is in essence exactly the level of information EPA was seeking to be made available by using the term ''OBD system operational information.'' Therefore, EPA will finalize a list of required information to parallel the list finalized by CARB in their September 2002 Final Rule. OEMs shall make available for purchase to all covered persons, a general description of each OBD system used in 1996 and subsequent model-year vehicles, which shall include the following:

(A) A general description of the operation of each monitor, including a description of the parameter that is being monitored.

(B) A listing of all typical OBD diagnostic trouble codes associated with each monitor.

(C) A description of the typical enabling conditions for each monitor to execute during vehicle operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup.

(D) A listing of each monitor sequence, execution frequency and typical duration.

(E) A listing of typical malfunction thresholds for each monitor.

(F) For OBD parameters for specific vehicles that deviate from the typical parameters, the OBD description shall indicate the deviation and provide a separate listing of the typical values for those vehicles.

(G) A listing of monitor-specific OBD drive cycle information for all major OBD monitors as equipped including, but not limited to, catalyst, catalyst heater), oxygen sensor, oxygen sensor heater, evaporative system, exhaust gas re-circulation (EGR), secondary air, and air conditioning system. Additionally, for diesel vehicles under 14,000 pounds GVWR which also perform misfire, fuel system and comprehensive component monitoring under specific driving conditions (*i.e.*, non-continuous monitoring; as opposed to spark ignition engines that monitor these systems under all conditions or continuous monitoring), the OEM shall make available monitor-specific generic drive cycles for these monitors. Any OEM who develops generic drive cycles, either in addition to, or instead of, monitor-specific drive cycles shall also make these available in full-text on OEM Web sites.

(H) Identification and scaling information necessary to interpret and understand data available to a generic scan tool through ''mode 6'', pursuant to Society of Automotive Engineers SAE J1979.

EPA believes that this list meets the concerns of aftermarket service providers that not all OEMs provided complete information for the service and repair of emissions related problems. As discussed in the NPRM, we believe that a greater number of OEMs are providing this very information to both their franchised dealerships as well as the aftermarket which provides a strong indication that EPA should incorporate a more specific list of what EPA believes should be made available by all OEMs. We believe that the comprehensive list being finalized in today's action will ensure that more complete emissions-related information is available from all OEMs.

We are also finalizing a provision that requires the development of the information described above by the OEM even if this information does not already exist in some form for its dealerships. EPA is making this distinction to reiterate our position that there is a need for an increased consistency in the level of information made available across all OEMs. In the past, we have generally agreed that whatever information is made available to OEM dealerships provided an adequate basis to determine what information should be made available to the aftermarket. However, experience in implementing the 1995 regulations has underscored the need for EPA to be more specific in it's definition of emissions-related information as discussed in great detail above. This increased specificity of our definitions ultimately requires that all of the information required by these regulations be made available, regardless of whether or not it is currently made available to dealerships. In other words, OEMs may not make the claim that they do not have to make certain information required by this regulation available to the aftermarket because they do not even make it available to dealerships.

B. Anti-Theft Information

Summary of Proposal: EPA proposed that information needed to start the vehicle when the vehicle is equipped with an anti-theft or similar system that disables the engine also be made available to the aftermarket.

Summary of Comments: The Alliance and AIAM commented that they recognize the need to be able to start a vehicle after an emissions-related repair, but they have some concern with making this information available to aftermarket service providers in the manner proposed by EPA. The Alliance and AIAM also acknowledge that aftermarket service providers already have the ability to access this capability for a majority of their member companies. The Alliance and AIAM explained that some OEM anti-theft systems require a serial data message to be sent to the vehicle on the OBD data link (SAE J1962) that contains a PIN (personal identification number)or key that is unique to each specific vehicle. This vehicle specific code may be obtained from information that should be retained by the vehicle owner or may be obtained from an assistance center controlled by the OEM. In other words,

the aftermarket currently has access to anti-theft reinitialization in some form for many OEMs. The Alliance and AIAM commented that it is not clear from EPA's proposal if OEMs would be required to make these special codes available on the OEM Web sites. Rather, the Alliance and AIAM assumed that OEM Web sites would be required to inform aftermarket service providers on how to obtain the code from the OEM. The Alliance and AIAM further commented that enhanced data stream information that will be available to scan tool manufacturers would allow an aftermarket scan tool to complete the re-initialization process with the additional information that would be available from the OEM.

The Alliance and AIAM also commented on the impact that the proposed release of anti-theft information could have on other requirements that OEMs are subject to in the U.S. and internationally. For some OEMs, implementing EPA's proposed anti-theft provision would require redesigning the vehicle's anti-theft system in order to stay in compliance with requirements in place by other Agencies. Because of these factors, the Alliance and AIAM recommended that EPA finalize a phase-in for this requirement with full implementation in 2007. The Alliance and AIAM further comment that many OEMs already comply with the proposed requirement and that allowing sufficient lead time for a minority of OEMs will allow for sufficient time to implement changes without jeopardizing vehicle security or compliance with other regulations. The Alliance and AIAM additionally commented that EPA and CARB should work closely with the National Highway Traffic Safety Administration (NHTSA) in determining whether a component or system qualifies as a vehicle security system and whether providing this information would circumvent the anti-theft system.

The Automotive Service Association (ASA) also provided comments on the release of anti-theft information. ASA supports finalizing a provision that would make this information available to aftermarket service providers, but recommends that EPA be more specific about how aftermarket service providers can obtain anti-theft information and the timeliness of receiving the information. ASA commented that, if the information is protected to the degree that aftermarket service providers cannot immediately obtain the information, EPA should finalize a provision that the requires the OEMs to make this information available on the same day it is requested. ASA submitted similar comments in their written submission.

APRA and AERA also commented that repairers and rebuilders of the OBD computer itself also need specific information which will allow them to re-initialize a computer when it is being repaired after being removed from the vehicle. APRA and AERA commented that the proposed rule is not specific enough and that EPA should extend the anti-theft provisions to starting the computer if it has been removed from the vehicle.

The National Automobile Dealers Association (NADA) commented that EPA lacks the authority to require ''unfettered dissemination'' of anti-theft information. NADA further commented that EPA did not consult with the National Highway Traffic Safety Administration, the U.S. Customs Service, the National Insurance Crime Bureau or other vehicle theft experts before drafting the proposal. NADA recommends that EPA develop a process that is very carefully controlled to address the restarting of vehicles disabled by anti-theft systems during emissions-related repairs.

The Automotive Aftermarket Industry Association (AAIA) and the Automotive Warehouse Distributors Association (AWDA) commented that they support a provision that will mandate OEMs to provide aftermarket service providers with the ability to reinitialize anti-theft systems after the completion of emissions-related repairs. AIAA and AWDA further commented that the proposal does not go far enough. AIAA and AWDA are particularly concerned about rebuilt ECUs that must be removed from the vehicle that are sent off-site for the rebuilding process. AIAA and AWDA comment that OEMs should enter into licensing agreements with the few companies who rebuild ECUs to ensure that they have the codes or ''black boxes'' which contain the codes.

One independent aftermarket service provider commented that the mandated release of anti-theft information to aftermarket service providers would be detrimental to the driving public. Rather than making anti-theft information directly available to the aftermarket, Mr. Porcaro further commented that OEMs should be required to inform aftermarket service providers which vehicle systems are impacted by anti-theft systems. To the extent that those vehicle systems cannot be reprogrammed without anti-theft system information, OEMs should be required to have their respective dealer networks available for quick and inexpensive reprogramming.

SEMA commented that anti-theft information is necessary to validate repairs, allow for product development and to verify the remanufacture of an ECU or similar electronic components. SEMA further commented that this information must be available not only through the scan tool but also via the OEM Web sites. SEMA agrees with other commenters that security issues related to the release of this information is an important concern. However, SEMA commented that vehicle owners must have the ability to provide anti-theft information to an independent facility and the independent facility must have the ability to use the information obtained from, or authorized by, the owner to complete the repair. SEMA believes that this combination should minimize concerns about the inappropriate release of anti-theft system information to the aftermarket.

Nissan of North America commented that the release of anti-theft information would seriously compromise the intent of the anti-theft system and opposes any provision that would require this information to be made available to aftermarket service providers.

BMW commented that they generally agree with comments submitted by the Alliance and AIAM on this issue. BMW commented that they prefer not to see any provision at all that would require the release of this information, but that if EPA decides to move forward, the Agency should allow for sufficient lead time for implementation. BMW further commented that there appears to be some discrepancy between the proposed preamble language and proposed regulatory language. Specifically, BMW is concerned that the preamble refers to information and tools needed to start the vehicle after the completion of an emissions-related repair, whereas the proposed regulatory language makes no mention of tools. This is of particular concern to BMW because BMW does not have ''information'' in the traditional sense that would allow an aftermarket service provider to re-set the security system after an emissions-related repair for 1993—2003 model year vehicles. Rather, BMW has the functionality built into their OEM-specific scan tools that allow for re-initialization of the (ECU) which, for BMW, only occurs when the ECU is replaced. BMW also commented that EPA should adopt the anti-theft language proposed by CARB.

Volkswagen of American (VW) submitted written comments requesting that anti-theft provisions be removed from the final rulemaking. VW commented that this issue should be discussed in a separate effort that would allow for a thorough discussion with all

interested parties and agencies to ensure that such a requirement would not have a negative impact on OEM efforts to improve vehicle security.

ETI commented that OEMs have known for many years that security could not be used as an excuse to require the vehicle to be towed to the dealership for a special process and thus deny the aftermarket from participating in computer replacement or reprogramming. ETI further commented that there is no need to delay this requirement until 2007, as suggested by at least one OEM. ETI commented that OEMs have had ample time to design vehicle ignition systems that can be started after a computer change or reprogramming event.

American Honda commented that vehicle theft is of particular concern to Honda given that Honda vehicles have a particularly high theft rate in the U.S. and abroad. Honda has committed significant resources to reducing vehicle theft for its vehicles and recent data indicates that the theft rate for Honda vehicles has been significantly reduced since immobilizer systems have been installed on Honda vehicles. Honda attributes the success of their immobilizer systems to the considerable control process they incorporate to protect the proprietary information with their licensed dealers. Honda is concerned that they would not be able to put in place similar controls for the aftermarket and would be left with no course of action against third parties if security agreements were violated. Honda commented that they have been in contact with law enforcement agencies, the insurance industry and the National Highway Traffic Safety Administration to gather their expert opinions on the matter and encourages EPA to do the same.

American Honda commented that because of the issues outlined above, they strongly oppose the proposed requirement to release information to the aftermarket on how to obtain information to reinitialize Honda vehicles, other than instructing the customer to return to a licensed Honda dealer. The Aftermarket Consortium reiterated its support for making anti-theft and re-initialization procedures available to the aftermarket, including those companies that rebuild ECUs. They state that without the ability to initialize the system, the aftermarket service provider cannot complete the repair of the vehicle. Currently 900,000 rebuilt ECUs are sold annually. If rebuilding facilities are not able to initialize the anti-theft system, they will not be able to provide these services. They state that they are well aware of the concerns regarding the integrity of the anti-theft system. However, many companies allow the initialization of the system using a ''black box'' that avoids the need to reveal anti-theft codes.

The Service Technicians Society (STS) submitted written comments in support of making anti-theft and re-initialization procedures and information available to aftermarket service providers, so that the motorist can drive away from the service facility after an OBD check or repair is made.

The Highway Loss Data Institute (HLDI) submitted written comments voicing their opposition to the release of any information related to anti-theft systems to the aftermarket. HLDI commented that their organization has monitored the effectiveness of anti-theft devices for many years. Their data indicates a significant decrease in automobile theft with the installation of vehicle anti-theft systems. HLDI further commented that the release of this information to the aftermarket would seriously compromise the effectiveness of anti-theft systems. HLDI is concerned that it would be difficult to confine the release of the information only to the aftermarket and the release of this information would inevitably increase access to people involved in vehicle theft. HLDI is also concerned about the premium discounts some insurance providers make available to vehicle owners. HLDI commented that insurers would be forced to reassess the appropriateness of these discounts if OEMs must publish the codes and other information necessary to reinitialize an anti-theft system. Finally, HLDI commented that EPA should rescind any provision that requires OEMs to make available anti-theft information available to the aftermarket.

Written comments were received by the Advocates for Highway and Auto Safety (Advocates) after the close of the August 27, 2001 comment period. In their comments, the Advocates expressed concern for any provision that would require the release of anti-theft information. In particular, the Advocates are concerned about the posting of anti-theft system codes and other sensitive information on the World Wide Web. Even if the information can be encrypted, this will not ensure that the information will not fall into the hands of vehicle thieves. The Advocates recommend that EPA refrain from adopting the portions of the proposal that would require the publication of anti-theft codes and information by the OEMs. Further, the Advocates comment that EPA consult with NHTSA and other interested parties regarding other means to achieve EPA's goal. The Advocates commented that one option might be to require that anti-theft and emission-related functions be separately configured so that the maintenance and repair of one system does not affect the other.

EPA Decision: As stated in the preamble to the proposal, EPA is sensitive to finalizing any provision that would jeopardize the intent of any OEM anti-theft system. However, we also believe that vehicle design on at least some OEM vehicles would prevent an aftermarket technician from completing an emissions-related repair without the ability to re-initialize a vehicle's anti-theft system. As we noted in the proposal, re-initialization is critical to the ability of an aftermarket technician to complete an emission-related repair. A vehicle that cannot be driven away from the shop has not been fully repaired. Therefore, this information and/or the ability to perform this service must be made available to the aftermarket in a timely and cost effective manner. In order to allow OEMs maximum protection of the integrity of their anti-theft systems, EPA will finalize the following provisions for the availability of anti-theft system information. OEMs shall make available computer or anti-theft system initialization information necessary for the proper installation or repair of on-board computers or the repair or replacement of any other emission-related part on motor vehicles that employ integral vehicle security systems. OEMs are not required to make this information available on the OEM's Web site unless they choose to do so. However, the OEM's Web site shall contain information on obtaining the information and/or the ability to perform re-initialization.

Beginning with the 2008 model year, we require that all OEM systems will be designed in such a way that no special tools or processes will be necessary to perform re-initialization. In other words, EPA expects that the re-initialization of vehicles can be completed with generic aftermarket tools, a pass-through device, or an inexpensive OEM-specific cable. This model year cut-off is consistent with the requirement to complete the phase-in of the SAE J2284–3 CAN requirement as discussed in section 18 of this document. We believe it is reasonable to allow for additional leadtime through the 2007 model year to allow those OEMs who need additional time to reconfigure their vehicle systems in such a way that the release of anti-theft information can be accomplished without posing a threat to the integrity of the system and without special tools or an OEM-specific tool. Therefore, an

OEM may request, by 1 month following the effective date of the final rule Administrator approval for an alternative means to re-initialize vehicles for some or all model years through the 2007 model year.

The Administrator shall approve the request only after all of the following conditions have been met:

(A) The OEM must demonstrate that the availability of such information to aftermarket service providers would significantly increase the risk of vehicle theft.

(B) The OEM must make available a reasonable alternative means to install computers, or to otherwise repair or replace an emission-related part.

(C) Any alternative means proposed by an OEM cannot require aftermarket technicians to return to an OEM franchised dealership to obtain information or special tools to re-initialize the anti-theft system.

(D) Any alternative means proposed by an OEM must be available to aftermarket technicians at a minimal cost.

(E) Any alternative must be available to aftermarket technicians within twenty-four hours of the initial request.

(F) Any alternative must not require the purchase of a special tool or tools to complete this repair. For example, an OEM who intends to request approval to require the purchase of their OEM-specific tool or some other OEM-specific special tool as their alternate solution through model year 2007 must allow the aftermarket to lease that tool for a short period of time, at appropriate minimal cost, rather than requiring the outright purchase of the tool.

(G) In lieu of leasing their OEM-specific tool to meet this requirement, an OEM may also choose to release the necessary information to equipment and tool manufacturers for incorporation into aftermarket scan tools. Any OEM choosing this option must release the information to equipment and tool manufacturers within 60 days of Administrator approval. OEMs may also choose to comply with this requirement using SAE J2534 for some or all model years through model year 2007.

We believe that it is unreasonable and directly contrary to the intent of section 202(m)(5) to require the aftermarket to purchase numerous and costly tools that they would not have otherwise purchased to perform a relatively infrequent repair. In fact, it is for the same reasons that, as discussed below, EPA is requiring that all OEMs make available generic and enhanced scan tool information to equipment and tool companies. Requiring the purchase of expensive tools for such minimal and rare repairs would be an especially egregious abuse of the OEMs' monopoly of information in order to charge unreasonable costs.

Regarding the requirement that OEMs provide the information directly to aftermarket technicians, not through dealerships, several OEMs have commented that it is appropriate to limit the information to dealerships because of the greater security concerns associated with providing the information to the aftermarket. These arguments are directly contrary to the letter and intent of section 202 (m)(5). One of the key purposes of that section was to prevent OEMs from giving their dealerships substantial competitive advantages against their competitors in the aftermarket repair industry by giving repair information only to dealerships, leaving aftermarket technicians at the mercy of their competitors. OEMs have not shown that providing a method for aftermarket technicians to re-initialize vehicles will inherently provide less security than providing re-initialization information to their dealerships; nor have they shown that any speculative problems justify the considerable competitive disadvantage caused by providing this information solely to their dealers. Our regulations do not require this information to be provided on the OEM's Web site and allow OEMs to provide the information enabling re-initialization to aftermarket technicians in a secure manner. The Alliance/AIAM comments note that many OEMs already provide such information directly to the aftermarket.

C. Accessibility and Performance Requirements of OEM Web Sites

Summary of Proposal: We proposed that each OEM Web site allow end-users to search its database of emission-related service information by various topics. We proposed that the topics include, but not be limited to, model, model year, key words, phrases, diagnostic procedures, scheduled maintenance and vehicle identification number (VIN). Additionally, we proposed that OEMs must provide information to allow for readily identifying the latest vehicle calibration. Further, while the VIN may be offered as one means of conducting a search, we proposed that OEMs may not require the use of a VIN to initially access the data base. We also proposed that the use of proprietary hardware, software, viewers, browsers and formats for accessing information be prohibited. In other words, OEMs must develop their service information, and provide access to it, in such a way that it can be viewed using software such as Adobe Acrobat Reader that is readily available to Internet users. The OEM's Home Page must be accessible to anyone and contain instructions on how to access the information. Instructions should include, but not be limited to, minimum hardware and non-proprietary software needed by the end-user and associated costs for accessing and purchasing information. Finally, we proposed that OEMs not limit the modem speed by which aftermarket service providers can access OEM Web sites.

We also proposed performance and reporting requirements for OEM Web sites. We proposed that OEMs submit to the Administrator on an annual basis a report that provides detailed, monthly measurements of the OEM's Web site. Each OEM report is to be submitted to the Administrator beginning one year after the required launch date of OEMs' Web sites (*i.e.,* one year and 6 months after the final rule is issued), or upon request by the Administrator.

Summary of Comments: The Alliance and AIAM, and several individual OEMs commented on EPA's proposal to allow searching of OEM Web sites by VIN. They commented that requiring a Web site to be searchable by VIN will inflate the cost of information without providing a meaningful improvement in accessibility. They further commented that service technicians customarily search for information by make, model and year and that searchability by VIN is only useful for some items such as service campaigns and vehicle calibrations (for some OEMs). The Alliance and AIAM recommend deleting this requirement from the final rule.

APRA and AERA commented that they do not see a need for access by VIN to the OEM Web sites. A technician who knows the VIN of the vehicle they are repairing also knows the model and model year and can access the information in that manner.

Mr. Jerry Truglia of ATTS commented that EPA should require several options for OEM Web site searchability criteria. Mr. Truglia commented that all OEM Web sites should have uniform and consistent search engines. In addition, all OEM Web sites should be searchable by VIN, vehicle system, generic OBD part name, and P0 and P1 diagnostic trouble codes.

The Speciality Equipment Manufacturers Association (SEMA) commented that they strongly support the proposed requirement that service information be searchable by VIN. SEMA commented that this type of search is necessary because many repairs such as service campaigns, field fixes and running changes are

implemented on the basis of VIN. SEMA also commented that EPA should consider a requirement for a VIN-based history of the services and repairs performed on a given vehicle to help ensure the proper repair procedure is used since the content/condition of a given vehicle will be more accurately known. VIN-based histories would also be of value to consumers by giving them more information about an in-use vehicle's history at the time of purchase.

The Aftermarket Consortium submitted comments suggesting that a search by VIN on OEM Web sites is not necessary.

BMW commented that EPA's proposal to require that information be searchable by model year poses a problem for BMW because of how they organize their service information. BMW organizes its service information by combining body series, engines, body types, and transmissions. Currently, any technician searching for BMW information could not locate information for the vehicle in question by simply searching for a model year. BMW proposes that they would provide a link to a cross-reference document that describes the various combinations and the model years they pertain to in order to assist technicians who are not familiar with the structure of BMW vehicles and service information.

STS commented that searching for information by VIN is a more accurate way to search for information on OEM Web sites, but that it can not be the only way. STS commented that, to the extent a search by VIN is required, it should be restricted to the least amount of numbers that would not jeopardize rights to privacy of the vehicle owner.

With regard to EPA's proposal on performance and Reporting Requirements, the Alliance and AIAM and several individual OEMs commented that they believe that the detailed reporting provisions in the proposal should be eliminated and replaced with a general reporting requirement for an annual report on the performance of a Web site with a specified deadline. The Alliance and AIAM further commented that any details of the annual reports should be addressed separately from the regulations in the form of EPA's manufacturer guidance letter. The Alliance and AIAM expressed particular concern of the list of 17 criteria as being too specific given the rate of change in Internet activities. They commented that it is likely that EPA would want to change the content of the annual reports over time to reflect advances in Internet technology and other issues. To include specifics in the final regulation would put the burden on EPA to change the regulations frequently which is not practical given the complexities of the regulatory process. The Alliance and AIAM further recommend that EPA schedule a public workshop to discuss the criteria that should be reported to EPA before issuing any guidance to ensure that all parties have input.

ASA commented at the public hearing that generally, the OEM Web sites must be required to meet some minimum standards for performance to ensure that independent repair shops are not subject to low quality Web sites from a time or quality perspective. Web sites that are not user friendly will not be utilized by the aftermarket, therefore undermining the intent of the regulation to improve the accessibility of information to the aftermarket.

NADA commented at the July 25, 2001 public hearing that they support EPA's proposal to shift to delivery of service information via the Internet. However, NADA commented that it is not necessary for EPA to micro manage OEM Web sites. In particular, NADA commented that EPA did not need to establish requirements for how information on the sites is searched or indexed, whether the information can be downloaded and how, what, or who the OEMs can charge for the information.

The Automotive Aftermarket Industry Association (AAIA) and the Automotive Warehouse Distributors Association (AWDA) commented at the July 25, 2001 public hearing that they support a provision that will require OEMs to submit annual reports that provide detailed monthly measurements of OEM Web sites. AAIA and AWDA expressed concern that EPA has not established standards by which the reports can be judged and without such standards, EPA will not be able to take enforcement action against an OEM for a Web site that is not accessible to independents. AAIA and AWDA commented that EPA should adopt criteria similar to that being considered by CARB for performance standards that include such parameters as ensuring that OEM Web servers have sufficient capacity to allow ready access by all covered persons.

The Aftermarket Consortium submitted comments that they support requirements that OEMs submit annual reports regarding Web site performance and that this information will assist the Administrator in measuring the effectiveness of OEM Web sites. The Aftermarket Consortium also commented that they are concerned about the reporting parameters proposed by EPA because they do not include some minimum performance expectation and will not provide sufficient guidance to ensure OEM compliance. The Aftermarket Consortium recommended that EPA adopt the performance requirements proposed by CARB.

ASA commented that reporting requirements should include an analysis of how information transfers have worked for third party providers.

EPA Decision: Based on the comments received, there is no obvious agreement on the need to require a search by VIN on OEM Web sites. When proposing this particular provision, we believed that requiring a search by VIN on the OEM sites would not be overly burdensome for the OEMs and would be of some benefit to aftermarket service providers. After further consideration, it now appears that requiring OEMs to design sites that require information to be searchable by VIN would require considerable resources, but would not considerably improve the ability of the aftermarket to find information on OEM Web sites. The California Air Resources Board has not finalized a similar provision for these same reasons. Therefore, EPA will not require the VIN as a search method for OEM Web sites.

In response to BMW's comment about searching by model year, EPA agrees that there may be a few OEMs who do not delineate their service information by model year. We agree that it is reasonable to adopt BMW's proposal that would allow for OEMs who do not have a model year delineation to allow searchability by some alternate means such as body series. However, EPA also agrees that any OEM who does not use model year should include some documentation that allows for a cross-reference to model year for those aftermarket service providers who may not be familiar with the structure of OEM vehicle classification.

With regard to OEM Web site performance and reporting requirements, EPA believes that the performance of OEM Web sites is paramount to the availability of the information. The reporting parameters proposed by EPA were intended to ensure that EPA would have sufficient information to evaluate the performance of OEM Web sites to ultimately ensure that the information required by these regulations is truly available. While EPA believes that the parameters proposed would achieve this goal, we agree with commenters that finalizing reporting requirements as proposed would not allow EPA maximum flexibility for making adjustments to the provisions to allow for technology advances and implementation experience. We also

agree that a reasonable alternative is to finalize some minimum reporting requirements as part of the regulation that must be measured by the OEMs and provide additional guidance after discussions with all interested parties as the OEM Web sites are reviewed. OEMs must provide annual reports containing monthly measurements of the following parameters:

(A) Total successful requests (measured in number of files including graphic interchange formats (GIFs) and joint photographic expert group (JPEG) images, *i.e.* electronic images such as wiring or other diagrams or pictures). This is defined as the total successful request counts of all the files which have been requested, including pages, graphics, etc.

(B) Total failed requests (measured in number of files). This is defined as the total failed request counts of all the files which were requested but failed because they could not be found or were read-protected. This includes pages, graphics, etc.

(C) Average data transferred per day (measured by bytes). This is defined as average amount of data transferred per day from one place to another.

(D) Daily Summary (measured in number of files/pages by day of week). This is defined as the total number of requests each day of the week, over the time period given at the beginning of the report.

(E) Daily report (measured in number of files/pages by the day of the month). This is defined as how many requests there were in each day of a specific month.

(F) Browser Summary (measured in number of files/pages by browser type, *i.e.,* Netscape, Internet Explorer). This is defined as the versions of a browser by vendor.

(G) Any other information deemed necessary by the Administrator to determine the adequacy of an OEM Web site.

EPA will work with OEMs and issue further guidance regarding requirements to outline a consistent format and timing of submission.

OEMs may request Administrator approval to report on parameters other than those described above if the OEM can demonstrate that those alternate parameters will provide sufficient and similar information for EPA to effectively evaluate the OEM Web site.

In addition, several commenters suggested that EPA should harmonize with CARB and at a minimum, adopt the performance criteria finalized in their service information rule. EPA agrees and will therefore finalize a provision that requires OEMs to launch Web sites that meet the performance criteria described below:

(A) OEM Web sites shall posses sufficient server capacity to allow ready access by all users and have sufficient downloading capacity to assure that all users may obtain needed information without undue delay;

(B) Broken Web links shall be corrected or deleted weekly.

(C) Web site navigation does not require a user to return to the OEM home page or a search engine in order to access a different portion of the site.

Performance reports will be submitted to the Administrator annually and within 30 days of the end of the calendar year, or upon request by the Administrator. EPA will issue additional direction in the form of official manufacturer guidance to further specify the process for submitting reports to the Administrator.

D. Structure and Cost of OEM Web Sites

Summary of Proposal: We proposed a tiered approach for access to OEM Web sites. First, we proposed that OEMs provide short term access for a set price. We proposed that OEMs would set up a short time frame of approximately 24 hours whereby an aftermarket service provider would be able to access that OEM's Web site, search for the piece of information they need, and purchase, download and/or print it for a set fee. We proposed that a reasonable fee for short term access can be as little as $0, but should be no greater than $20.

We also proposed that OEMs provide mid term access for a set price. Under this scenario, aftermarket service providers would be able to access the OEM Web site for a 30 day time frame and purchase, download and/or print information under this option for a set fee. EPA believes that a reasonable fee for mid term access can be as little as $0, but no greater than $300.

We proposed that OEMs provide long term access for a set price. Under this scenario, aftermarket service providers would have access to the OEM Web site for a 365 day time frame, including the ability to purchase, download and/or print the information for a set fee. EPA believes that a reasonable fee for long term access can be as little as $0, but no greater than $2500.

Summary of Comments: The Alliance and AIAM, and several individual OEMs commented that they understand the goal of this proposed provision to meet the needs of a variety of Web site users. However, the Alliance and AIAM further commented that the OEMs should be allowed some flexibility in designing their Web sites. The Alliance and AIAM proposed that additional language be added to the final rule that would allow an OEM to request approval from the Administrator for an alternative method by which the information can be accessed. The Alliance and AIAM commented that this flexibility would allow for innovation without jeopardizing the intent of the proposed tiered approach.

The Alliance and AIAM also commented at the public hearing on the cost caps proposed by EPA for each of the tiers. They commented that the proposal goes well beyond specifying factors to be considered in terms of pricing for Internet access and exceeds the authority of the Agency under the Clean Air Act. The Alliance and AIAM provided extensive legal discourse to support its assertion that ultimately EPA's authority to require the disclosure of service information is tertiary behind EPA's primary responsibility to set emissions standards, and secondary responsibility to require OBD systems. The Alliance and AIAM further commented that even if EPA has authority to compel information disclosure, EPA's proposal to limit OEM compensation for disclosed information would undermine the Clean Air Act. They stated that if OEMs are unable to obtain reasonable, flexible compensation for the information they provide, they will have less incentive and diminished ability to provide the information to end users in a timely, detailed, and user-friendly manner. The Alliance and AIAM go on to comment that section 202(m)(5) does not mention prices or price-setting authority for EPA. Finally, the Alliance and AIAM commented that EPA has set its proposed caps with very little data and analysis, and therefore, they are arbitrary and capricious, even if EPA had the authority to establish price caps.

The Alliance and AIAM further commented that the proposal overlooks the fact that federal intellectual property laws protect some of the documents covered by the EPA proposal.

The Automotive Service Association (ASA) commented at the public hearing that EPA's proposed price caps were too high. ASA further commented that EPA must take into consideration the fact that aftermarket shops still need to purchase non emissions-related information as well. ASA proposed an alternate pricing structure. For short term access, ASA proposed $1. For mid-term access, ASA proposed a $30 maximum. For long term access, ASA proposed a $365 maximum. ASA commented that their proposed prices were fair and reasonable and that EPA's proposal places additional cost burden on the aftermarket that must be limited

as much as possible. ASA expressed concern that if the price burden is not adequately addressed, it could be used as a tool to diminish the role of the aftermarket. The ASA submitted written comments reiterating their proposal for price caps. ASA further commented that EPA's proposed price caps do not take into consideration the additional costs that will have to be accounted for by independent shops to shift to the Internet to acquire service information. ASA asserts that many aftermarket shops will have to invest in computer equipment, Internet access, training, and possible the hiring of administrative staff. Further, ASA commented that EPA must prohibit OEMs from providing service information at a reduced cost based on participation in an OEMs parts distribution program. ASA also commented that OEMs must bear the responsibility of educating the aftermarket as to the availability and structure of their Web sites.

The Automotive Parts Rebuilders Association (APRA) and the Automotive Engine Rebuilders Association (AERA) commented at the public hearing that price is a concern to rebuilders also. They commented that they are particularly concerned with the way EPA lists the factors that should be taken into consideration when determining if information is available at a fair and reasonable price. APRA and AERA commented that in the 1995 rule, EPA lists factors that the Administrator *shall* take into consideration, whereas the proposed rule lists factors that the Administrator *may* take into consideration. APRA and AERA commented that this seemingly small change could have a significant impact on the issue of price. This slight word change could lead to an interpretation that EPA may allow, but does not require that the Administrator take these factors when determining fair and reasonable price. APRA and AERA further commented that the setting of price caps does not obviate the need for a reasonableness determination and that the proposed rule may be inviting an OEM to choose a price near the cap, even though the OEM could not otherwise justify the price. Therefore, APRA and AERA believe that EPA must be required, not merely allowed, to use the listed factors when making fair and reasonable price determinations.

Jerry Truglia of the Westchester/Putnam Chapter of the Service Technicians Society (STS) commented at the public hearing about their concern regarding what the tiered approach proposed by EPA would actually give aftermarket technicians access to on the OEM Web site. For example, Mr. Truglia questioned if a technician purchased a 30 day access to an OEM Web site, would that technician have access to all of the OEM vehicles, or just one; would it cover all model years from 1996 on, or just one model year; would the subscription include all OEM badge names or just one. Mr. Truglia also submitted written comments proposing a different approach to aftermarket access for service information. Mr. Truglia proposed that the most effective way to ensure that all information is available to both dealers and aftermarket technicians is to include a CD or manual with the purchase of every new vehicle. In the alternate, Mr. Truglia proposed that new vehicles could be installed with microchips that could take the place of the CD or paper manual. Under either scenario, a technician could connect to the Internet to ensure that they had the latest information and/or reprogramming event. Ultimately, Mr. Truglia is concerned that OEM Web sites will not have all of their vehicles listed under their badge, that search engines will not be easy to navigate, will not have reliable connections for 24 hour access, and that proposed fees are above what repair facilities can afford.

The Automotive Aftermarket Industry Association (AAIA) and the Automotive Warehouse Distributors Association (AWDA) commented at the July 25, 2001 public hearing that the price caps proposed by EPA are too high and, if utilized by every OEM, access to service information on the Internet would not be affordable by most aftermarket shops. AAIA and AWDA further commented that it is not clear why OEMs would need to charge such high prices based on current costs for establishing and operating a Web site and the fact that its use will be spread over thousands of service facilities and franchised dealerships. AAIA and AWDA commented that the price caps proposed by EPA should be lowered significantly.

AAIA and AWDA also commented that EPA should retain the factors listed in the 1995 regulations regardless of what is finalized with regard to price caps. AAIA and AWDA further recommend that EPA modify the current factors to be consistent with those proposed by the California Air Resources Board (CARB) service information rule, particularly because CARB includes the affordability of the information to average service facilities as one of it's factors for determining reasonable cost. AAIA and AWDA also reiterated that affordability of service information is a critical issue for the aftermarket and unless small and medium sized service facilities can afford to purchase the required information and tools, the intent of the service information provision of the Clean Air Act will not be carried out.

J&J Automotive submitted written comments that it is not clear what the prices that OEMs will charge for access to information will actually cover. Similar to Mr. Truglia's comments, J&J Automotive commented that it must be made clear if access to information will be for the OEMs entire car line or just one specific model.

The Wisconsin Department of Transportation commented that EPA's proposal to require information and training at a reasonable cost represents a fair compromise between those parties that would like access to information for free and those OEMs who might attempt to limit access through unreasonably high pricing. Wisconsin DOT further commented that EPA should include aftermarket technicians and repair shops in discussion pertaining to the establishment of specific price caps in order to determine if ''reasonable'' is truly reasonable.

The Alliance of Automotive Service Providers (AASP) commented that the price cap for long term access to OEM Web sites will be cost prohibitive for the majority of aftermarket shops. For short term access, AASP commented that EPA should finalize a 15 day period rather than the 24 hour period originally proposed and that the fee for this short term access should be no more than $20. The AASP further commented that they reserve the right to pass each OEM's information access charges onto their customers. AASP will also ask their members to consider assuming part of these costs in the business plans and to bill customers for the remaining portion of the access fees where feasible.

Trevor Samoil of Trevor and Joanne Automotive in Vancouver, Canada commented that accurate and reasonably priced information is the hardest tool to obtain and supports EPA's efforts to establish reasonable cost parameters for information access.

Michael Haven of MPH Automotive Services commented that, when determining reasonable price, EPA should consider the fact that the information being sought by aftermarket service providers has already been created for their dealer networks. OEMs are not being asked to create new information to meet the information needs of aftermarket shops. Mr. Haven further commented that EPA should ensure that the OEMs not be allowed to create profit centers when making information available in the aftermarket. Mr. Haven sites Volvo as an example of an OEM who is charging too much for

Web based access to information. As of this writing, Volvo is charging about $1,700 per model per year for access to their site, which covers both emissions and non-emissions related information. Mr. Haven suggests that Hyundai, who currently allows access to their Web based service information free of charge is the model that all OEMs should be required to adhere to.

Vincent J. Porcaro commented that the price caps proposed by EPA are excessive. Mr. Porcaro further commented that it would cost an excess of $10,000 per year to have access to Ford, GM, Chrysler and one import for one year. Mr. Porcaro commented that more reasonable price caps would be $15 for 24 hour access, $45 for 30 day access and $250 for yearly access. Mr. Porcaro commented that his proposed pricing structure would be more consistent with current sources of information utilized by the aftermarket. Mr. Porcaro also commented that phrase ''reasonable cost'' must be revisited because the phrase has many interpretations. What is reasonable to one may not be reasonable to another and EPA must allow the aftermarket repair industry reasonable access to the needed information and tools. Mr. Porcaro commented that the ability to have the aftermarket scan tool manufacturers receive generic and enhanced information for a reasonable fee must be part of the federal certification of all vehicles for sale in the public market otherwise the information may not be released in a timely manner. Further, Mr. Porcaro states that the phrase ''reasonable cost'' must be revisited as this phrase has many interpretations. Further, EPA must allow the aftermarket repair industry reasonable access to the needed information and tools.

The National Automobile Dealers Association (NADA) submitted written comments that EPA has no justification, statutory or otherwise, to regulate ythe cost of OBD information and that any attempt to do so exceeds EPA's authority. Further, NADA commented that EPA must take into consideration the cost to OEM dealerships for the same or similar information when determining if OBD service information is being made available at a fair and reasonable price to the aftermarket and that this factor should be included in the final regulations. NADA also included in their written comments responses to a survey they conducted at dealerships to provide EPA with an idea of what dealers are paying for tools, training, and information. Lastly, NADA commented that it takes a significant investment in tools, training, and information in order to service ''high tech'' vehicles and that any vehicle maintenance facility unwilling or unable to make those investments should be dissuaded, if not prohibited, from working on OBD repairs.

ETI commented that the Alliance and AIAM submitted nearly 4 pages of unsupportive comment on the issue of the cost of service information. ETI contends that this demonstrates the OEMs lack of interest in trying to provide the most information at the least cost. ETI further commented that OEMs should be concentrating more on whether their vehicles are being adequately serviced and about whether the customer is having a positive service experience. To this end, ETI commented that they do not understand why OEMs don't try to use every means possible to make sure that everyone has the required information they need.

The Aftermarket Consortium commented that, while section 202 (m)(5) of the Clean Air Act does not specifically include a reference to cost, it was evident that Congress clearly understood the importance of cost as it relates to the availability of information. They also commented that EPA also understood the importance of cost when finalizing the 1995 rule by connecting the availability of information to the ability to afford information. The industry associations also proposed that EPA adopt the criteria that the California Air Resources Board (CARB) is considering to help define the reasonable cost of service information. The industry associations also supported the comments made by AERA and APRA that the final rule should say that EPA ''will'' consider certain criteria when making reasonable cost determinations as to the language used in the proposed rule that EPA ''may'' consider certain criteria when making such determinations.

The industry associations also commented that they support EPA's tiered approach for aftermarket access to the OEM Web sites. However, they do express concern that the price caps proposed by EPA will be beyond the means of most independent service facilities. Because most shops specialize in numerous makes and models, EPA's pricing structure could mean it would cost a shop tens of thousands of dollars in annual Web access fees, and these costs don't even include tools or other information updates, or non-emissions related information. They also expressed concerns that the caps may encourage all OEMs to charge the maximum amount allowed under by the caps. Finally, they commented that EPA should lower the proposed cap limits to take into consideration the factors outlined in their comments on this issue.

Mr. Bob Clark of Clark Automotive Systems submitted written comments suggesting that all information needed to service a vehicle should become the property of the owner of the vehicle when it is purchased. Mr. Clark commented that the meaning of ''available'' and ''reasonably priced'' service information must maintain the consumer's right to choose in a competitive market place. Mr. Clark further commented that if the OEMs are allowed to restrain trade in the automotive repair industry by claiming intellectual property rights to their information, the result will be a reduction in a consumer's choice in where their vehicle is diagnosed and serviced.

EPA Decision: On the general issue of cost, EPA has said since our initial regulation of service information availability that cost is an integral factor influencing the availability of service information. The legislative history of this provision supports the view that Congress was concerned regarding the cost of service information and did not want service information to become a profit center for OEMs. The Clean Air Act requires that service information must be made available to *any* person engaged in the repairing or servicing of motor vehicles. This includes persons who service motor vehicles at large repair facilities, as well as service personnel at the smallest gas stations; it includes facilities that specialize in servicing a single vehicle brand, as well as shops that work on multiple vehicle brands. The legislative history explains this intent:

> The purpose of the amendment is to make sure that * * * the manuals, the techniques, are available to, in effect the local gas stations so that they will be more convenient for the automobile owner, that the automobile owner will not have to trek off to some dealer 30 miles away in order to be able to correct problems that have arisen with his automobile. * * * We want [manufacturers] to provide the information which will allow competition in the after market and allow small business operators to get in the repair business. 36 Cong. Rec. 3272 (1990).

We believe the Act's mandate will have been met only if the emission control service information is available to persons in all of these situations.

While the Clean Air Act does not specify the price that OEMs should be allowed to charge for service information, it does appear that Congress intended that the price of obtaining this information should not be so high that it significantly affects

competition between OEM franchised dealers and independent service stations. The legislative history states:

> There again, when we require them to promptly provide information needed, we recognize that we do not want to require somebody to provide a lot of expensive manuals absolutely for free, but we do not want the kind of charges that make this a profit center. 36 Cong. Rec. 3272 (1990).

Since independent service stations may repair vehicles manufactured by many different companies, they may be competitively disadvantaged if the cost of each manufacturer's service information were large. There can be little question that information provided only at exorbitant prices cannot be said to be ''available'' to the purchasers.

We continue to be concerned that OEMs will establish pricing structures that will essentially render their information unavailable to the aftermarket. In the 1995 rule, we established factors that should be taken into consideration when determining if the prices being charged were fair and reasonable. We received comments from the Alliance, AIAM, AAIA, AWDA, AERA, and APRA and others suggesting that EPA include the factors we established for the 1995 rulemaking when making general determinations about fair and reasonable cost. Additionally, we received comments suggesting that EPA should also include the list established by CARB in their September 2002 final rule which includes factors that are directed at determining fair and reasonable cost. There is extensive overlap between the EPA list and the factors finalized by CARB and we agree that items on both of these lists should be considered when determining fair and reasonable cost and will include them in this final rule.

EPA will therefore include certain of the factors from CARB's list to supplement EPA's preexisting list. In particular, in addition to the factors that EPA may already take into account under EPA's preexisting list, we will include: The cost to the OEM's franchised dealerships for similar information obtained from OEMs; the ability of the aftermarket technicians and shops to afford the information; and the extent to which the information is used, including the number of users, and frequency, duration and volume of use.

Regarding the comments that the proposal notes the factors EPA ''may'' consider, rather than ''shall'' consider, EPA believes that given the differing types of information required by the regulation and the numerous factors listed, it is appropriate that there be flexibility in determining what factors are appropriate in each given situation.

On the issue of price caps proposed for access to OEM Web sites, EPA received a significant amount of comments, most of which were against the proposal. Some OEMs questioned our authority to set price caps and several members of the aftermarket claimed that the caps were too high. While we believe that EPA has the authority to set price caps and that the caps proposed by EPA would provide us with a more objective measure of OEM compliance with our reasonable cost expectations, we will not finalize any price caps with this regulation. However, EPA believes it is necessary to thoroughly evaluate the pricing structure of each OEM Web site to ensure that information is being made available at a fair and reasonable price, and that OEMs are not pricing Web access in such a way that precludes its availability to a significant portion of the aftermarket. Therefore, in order to evaluate an OEM's pricing structure, we are establishing a process whereby each OEM must obtain EPA approval of its pricing structure. OEMs must submit a request to EPA that sets forth a detailed description of the pricing structure as well as amounts for access to their Web sites. In addition, OEMs must provide support for the position that the pricing structure and amounts are fair and reasonable by addressing the criteria listed in sections 86.094–38, paragraph (g)(7)(i) and 86.1808–03, paragraph (f)(7)(i) of the regulatory language for this final rule. Some of these criteria are further clarified below.

Regarding the net cost to the OEM franchised dealerships for similar information obtained from OEMs, less any discounts, rebates, or other incentive programs, EPA expects that OEMs will supply detailed information on the true costs that are incurred by their franchised dealerships to access information.

Regarding the ability of aftermarket technicians or shops to afford the information, EPA will consider the ability of the smallest service facilities as well as larger repair facilities. This includes facilities that either specialize in single or multiple vehicle brands, or that work on all brands.

Regarding the extent to which the information is used, this includes the number of users, and frequency, duration, and volume of use. EPA expects that as larger numbers of the aftermarket begin accessing OEM Web sites, the pricing and amounts for accessing the sites per customer should decrease.

A complete description of the approval process can be found in sections 86.094–38, paragraph (g)(7)(ii) and 86.1808–03, paragraph (f)(7)(ii) of the regulatory language for this final rule. Subsequent to the approval of the OEM Web site pricing structure and amounts, OEMs are required to notify the Administrator of any increase in price of twenty percent or more (accounting for inflation), including a justification based on the criteria for reasonable cost as established by this regulation.

Regarding the comments on the proposed tiering structure, EPA believes that it is necessary for the aftermarket to be able to access OEM information in a variety of ways given the varying nature of how the aftermarket services vehicles. However, we also agree with OEMs that it is reasonable for them to have some flexibility in how they design these tiers in order to ensure end-user satisfaction and to provide the OEMs with the ability to minimize the administrative burden in implementing a tiered approach. Therefore, EPA will finalize the following provisions for the tiered access of OEM Web sites.

OEMs shall allow short-term, mid-term, and long-term access to their Web sites. Short term access shall be for a period of 24–72 hours. Mid-term access shall be for a period of 30 days. Long-term access shall be for a period of 365 days. Access includes the ability to view and print the information. Based on comments received about potential copyright violations, EPA will not require OEMs to make their information available for downloading on to an end-user's computer system.

In addition, for each of the tiers, OEMs are required to make their entire site accessible for the respective period of time and price. In other words, an OEM may not limit any or all of the tiers to just one make or one model.

Regarding the Alliance and AIAM's legal discussion, EPA disagrees with the assertion that the Agency's responsibility for ensuring service information is provided to service providers is subsidiary to its other responsibilities under the Act. Section 202(m)(5) contains no language indicating that EPA's responsibilities and powers under that part of the Act are somehow limited by its other general responsibilities under the Act. Regarding the effect of these regulations or OEMs' incentives to provide timely, detailed user-friendly service information, Congress did not mandate that EPA create an incentive program to motivate OEMs, but instead Congress mandated that EPA promulgate regulations that bind their actions.

OEMs are required to provide the information in this regulation in a timely user-friendly manner. Though EPA understands that OEMs will be more motivated to do this if they receive more money, the requirements in these regulations are not dependent on OEMs' motivation. In order to accomplish Congress's intent to ensure service providers receive the information needed to make emission-related diagnosis, service and repair, the desire of OEMs to be compensated for providing such information must be tempered by the need for service and repair personnel to be able to afford such information. The regulations therefore allow OEMs to charge for this information, but the charges must be fair and reasonable.

Regarding their claim that these regulations may interfere with copyright protections, the cases cited deal only with a state law and, in an irrelevant context, an executive order. They do not deal with a federal statute that on its face requires the disclosure of information that may be copyrighted. It is clear from the statutory language and the legislative history that these materials (*e.g.* service manuals), which are generally available to at least some members of the public, are among the types of materials that Congress intended to be provided by this legislation. See Statements of Sens. Chafee and Gore , 136 Cong. Rec. 5391–92 (S3272) (March 27, 1990). It is worth noting that Congress cited specifically to the ''trade secret protections'' of section 208(c) but did not refer to the very different protections in copyright law.

Regarding the Alliance and AIAM comments on EPA's ability to set prices, though EPA does not agree with these comments, as discussed above, EPA is not finalizing its proposal to set specific prices for service information, though EPA retains its preexisting authority to ensure that costs be reasonable.

EPA does not agree with the comments submitted by Mr. Haven that the aftermarket should have free access to OEM information, though EPA does agree that some current prices appear exorbitant. The legislative history on the issue is quite clear that Congress understood that there were some costs incurred by the OEMs for making information available that were recoverable, but that this needed to be balanced with any attempts by the OEMs to either price information in such a way that it was not available or to turn aftermarket access to information into a profit center.

In response to Mr. Truglia and Mr. Clark's comments that the most effective way to ensure that all information is available to both dealers and aftermarket technicians is to include a CD or manual with the purchase of every new vehicle, EPA believes that, while there is some merit to this proposal, it would not necessarily solve aftermarket concerns to the availability and affordability of information. First, OEM service information is subject to amendment and the addition of new information (*e.g.* technical service bulletins) which would mean that any information included with the purchase of a new vehicle would be out of date or incomplete which will still put the aftermarket in a position of somehow working with an OEM to determine if they have the latest information.

Additionally, a vehicle is likely to change ownership several times during its useful life and there is no guarantee that the information that came with the vehicle will remain with the vehicle. Again, the aftermarket would be in a position of having to obtain this information directly from the OEM

In response to Mr. Truglia's proposal that new vehicles could be installed with microchips that could take the place of the CD or paper manual, while there may be some advantage to this approach in the future, EPA is not in a position to finalize such a provision without further research and debate on the feasibility of such an approach and its costs and benefits to the service and repair of vehicles.

E. Availability of Enhanced Information for Scan Tools

Summary of Proposal: We proposed to require an increased level of enhanced information to be made available to equipment and tool companies to develop more functional aftermarket diagnostic scan tools.

We proposed that within 30 days of publication of the final rule OEMs make available to companies who develop aftermarket scan tools all generic and enhanced service information for MY 1996 and later needed to manufacture diagnostic tools that can be used by aftermarket technicians to diagnose, service and repair emission-related components and systems. Enhanced service and repair information is defined as information which is specific for an original equipment OEM's brand of tools and equipment. Generic service and repair information is defined as information which is not specific for an original equipment OEM's brand of tools and equipment.

In addition, we proposed that OEMs provide information that describes which interfaces or combination of interfaces, from each of the categories in the sections above are used on each vehicle. This may be organized by application, system or a combination of both provided the information identifies which interfaces are used on each vehicle's system/model/model year. OEMs may use the New Product Information Guideline (NPIG) created by the Equipment and Tool Institute (ETI) as a guide to help meet this requirement or provide a substitute matrix approved by the Administrator.

We proposed that enhanced information includes, but is not limited to:

(a) All serial data stream information

(b) Bi-directional controls (*e.g.*, operation of actuators, initiation of self-checks, etc.) Including any safety precautions necessary prior to invoking the controls.

(c) Descriptions of non-proprietary logic and performance limits and specifications used in the OEM specific tools to perform diagnostic routines or sub-routines (*E.g.,* injector or cylinder balance tests, etc.)

(d) The physical hardware requirements for reprogramming events or tools (*e.g.* system voltage requirements, cable terminals/pins, connections such as RS232 or USB, wires, etc.);

(e) ECU data communication (*e.g.* serial data protocols, transmission speed or baud rate, bit timing requirements, etc.);

(f) Information on the application physical interface (API) or layers (*i.e.*, processing algorithms or software design descriptions for procedures such as connection, initialization, performing and verifying programming/download, and termination);

(g) vehicle application information or any other related service information such as special pins and voltages for reprogramming events or additional vehicle connectors that require enablement and specifications for the enablement.

Summary of Comments: STS commented that they agree that EPA's proposed description of enhanced diagnostic information is sufficient.

The Alliance and AIAM commented that EPA proposed that data stream information also be made available to equipment and tool companies. In particular, the Alliance and AIAM commented that EPA's definition of data stream information includes the words ''information * * * for use by other modules * * * to conduct normal vehicle operation or for use by diagnostic tools.'' The Alliance and AIAM do not take issue with making available data stream information required for diagnostic purposes. However, they do take issue with

making available data stream information related to normal vehicle operation. The Alliance and AIAM further commented that they do make this information available when it is directly related to diagnostics, but there are instances where scaling of this information may be different and the data may be combined differently with other data values. The Alliance and AIAM request that EPA clarify that only data stream information required for diagnostic purposes, and not the redundant data stream information used for normal operation, be made available to equipment and tool companies.

BMW commented that they interpret section (g)(12) as requiring OEMs to provide generic scan tool companies information needed to enable scan tools. BMW commented that it was in agreement in principle with these sections but needed clarification. In particular, BMW comments that sections (g)(11) and (g)(12) of the proposed regulatory language appear to be contradictory. In section (g)(11) of the proposed regulatory language, EPA proposed that OEMs make available reprogramming procedures, including ''information on application physical interface (API) or layers (*i.e.*, processing algorithms or software design descriptions for procedures such as connection, initialization, performing and verifying programming/download, and termination)''. In addition section g(11)(vii)(A), (B), and (D) specify additional reprogramming-related information. However, section (12)(ii) seems to intend that OEMs provide information for generic scan tools to work with l996 and later model year vehicles, and proposes that the same list of information be released for both reprogramming and generic scan tools. BMW commented that scan tool companies only need data stream information to enable capture and readout of generic and enhanced fault codes and reprogramming information is not necessary for developing generic diagnostic scan tools.

BMW is opposed to the release of any information to equipment and tool companies that would allow them to incorporate reprogramming capabilities because BMW considers this information to be proprietary information and BMW sees an extensive need for verification of these tools. In addition, BMW is able to implement the SAE J2534 specification for its 1999—2003 model year vehicles and can comply with the required release of information to the equipment and tool companies the information described above for the extra cable to allow for reprogramming of their vehicles. BMW commented that they do not have the resources to support tool and equipment companies who face challenges in developing these reprogramming tools.

BMW also made recommendations as to how section (g)(11) and (g)(12) should be rewritten to more clearly address what BMW believes EPA intends to accomplish.

EPA Decision: In response to BMW's comments, several clarifying points should be made. In paragraphs g(11) and g(12) of the proposed regulatory language, EPA proposed two distinct provisions to deal with two distinct issues. In paragraph g(11), we proposed that OEMs make available certain information to equipment and scan tool companies to allow for them to incorporate the reprogramming capability into aftermarket scan tools prior to the implementation of the pass-through reprogramming requirement (*i.e.* SAE J2534) in order to cover 1996–2002 model year vehicles. In paragraph g(12), we proposed that OEMs make an increased level of enhanced diagnostic information available to aftermarket to companies. In the 1995 regulations,EPA finalized a rather generic provision that required OEMs to make available enhanced diagnostic information to the equipment and tool companies for incorporation into aftermarket tools. Other than specifically noting that emissions-related data stream information be included, we left the interpretation up to the OEM as to what was considered enhanced diagnostic information. We found that the few OEMs who chose the option of releasing information to equipment and tool companies (rather than make their OEM specific tool for sale which was the other option available to OEMs and the one that most chose to meet the scan tool requirement) had different interpretations of what was considered ''enhanced diagnostic information.'' As a result, there was a fair amount of difference among the OEMs in the information made available to equipment and tool companies. In addition to the variety of interpretations of ''enhanced diagnostic information'', our experience in implementing the 1995 rule highlighted that there are very specific pieces of information needed by equipment and tool companies to ensure that aftermarket tools perform to their maximum capacity. As a result, equipment and tool companies were not able to develop aftermarket tools that adequately performed the enhanced diagnostic functions found in OEM tools. Therefore, we proposed more specific provisions for two important reasons. First, we believe it is necessary to increase the consistency of information that is released to aftermarket tool companies across OEMs to address some of the gaps we believe currently exist. Second, we believe a higher level of information is needed by aftermarket scan tools to increase the functionality of the aftermarket scan tools that are heavily relied upon by independent technicians. EPA is not finalizing a provision that will require OEMs to release the information that was proposed in the NPRM unless they cannot use SAE J2534 methods on 1996 to 2003 model year vehicles. Therefore, we believe BMW's concerns about section g(11) of the proposed regulatory language have been addressed.

With regard to the release of information to equipment and tool companies, we agree with BMW that there does appear to be some confusion in the lists of information that EPA proposed for both the reprogramming and generic and enhanced scan tool information sections in the regulatory language. In fact, the lists as proposed in these sections of the regulatory language contain some factual and typographical errors which are corrected here and in the final regulatory language. In sections (g)(12)(ii) and (f)(12)(ii) of the proposed regulatory language (''Reprogramming Information''), we included language that would require OEMs to make available to equipment and tool companies the necessary calibrations via CD-ROM, diskette, or the Internet (item E). This particular piece of information is one that would be purchased by an aftermarket service provider to complete a reprogramming event and therefore belongs in the ''Reprogramming Information'' section of the final regulatory language, which can be found in sections (g)(12) and (f)(12) of the regulatory language. Ultimately, we believe that the information we proposed to be made available is necessary for equipment and tool manufacturers to develop aftermarket scan tools with the same sophisticated functionality as is provided to dealerships using an OEM scan tool. In addition, we believe that the list of information we are finalizing today is not proprietary in nature and therefore should not concern OEMs. Therefore, we will finalize a provision that requires the OEMs to make available to equipment and tool companies the following information.

(A) The physical hardware requirements for data communication (*e.g.* system voltage requirements, cable terminals/pins, connections such as RS232 or USB, wires, etc.)

(B) ECU data communication (*e.g.* serial data protocols, transmission speed

or baud rate, bit timing requirements, etc),

(C) Information on the application physical interface (API) or layers. (*i.e.,* processing algorithms or software design descriptions for procedures such as connection, initialization, and termination)

(D) Vehicle application information or any other related service information such as special pins and voltages or additional vehicle connectors that require enablement and specifications for the enablement.

VI. What Are the Administrative Requirements for This Final Rule?

A. EO 12866: Regulatory Planning and Review

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

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

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

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

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

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

B. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

An Information Collection Request (ICR) document has been prepared by EPA (ICR No.0783.45). EPA has established a public docket for this ICR under Docket ID A–2000–49, which is available for viewing at the EPA Air Docket (*see* the **ADDRESSES** section for more information).

Respondent burden has been estimated by consulting with private companies who perform Web site performance measurement for a wide variety of clients. EPA estimates that each manufacturer can purchase software or services from private companies that can perform Web site performance activities for approximately $1000. EPA estimates that each manufacturer will spend approximately $250 per month to gather and maintain the information proposed to be collected for a total of $3000 per year per manufacturer. EPA estimates that the 45 potential respondents will incur approximately 100 burden hours per year.

Under Title II of the Clean Air Act, (42 U.S.C. 7521 *et seq.*), EPA is charged with requiring the manufacturers of vehicles and engines to make available emissions-related repair information to aftermarket service providers. To improve timely access to this information, EPA is requiring that vehicle and engine manufacturers provide access to the required emissions-related information in full-text via the World Wide Web. To ensure compliance with these statutes, EPA is requiring that manufacturers measure the performance of their Web sites as outlined in Section II.B(3)(b) of this preamble and report this information to EPA in electronic format on an annual basis. EPA will review the information to determine that the manufacturers subject to the proposed Web site requirements have developed Web sites with sufficient infrastructure to support potentially thousands of aftermarket service providers at any given time.

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.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, generally requires federal agencies to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule would not have a significant impact on a substantial number of small entities because the regulated entities impacted by this rulemaking would not be considered small entities.

Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory action on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgation an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before we establish any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, we must develop, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have

meaningful and timely input in the development of our regulatory proposals with significant federal intergovernmental mandates. The plan must also provide for informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA believes this final rule contains no federal mandates for state, local, or tribal governments. Nor does this rule have federal mandates that may result in the expenditures of $100 million or more in any year by the private sector as defined by the provisions of Title II of the UMRA. Nothing in the final rule would significantly or uniquely affect small governments.

E. Executive Order 13132 (Federalism)

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

This final rule will impose no direct compliance costs on states. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The requirements proposed by this action impact private sector businesses, particularly the automotive and engine manufacturing industries. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Children's Health Protection

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

EPA believes this final rule is not subject to the Executive Order because it is not an economically significant regulatory action as defined by E.O. 12866.

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

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

This final rule incorporates by reference technical standards adopted by the Society of Automotive Engineers (SAE). We believe these standards are well accepted by industry.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended 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 Congress and the Comptroller General of the United States. We 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). This rule will be effective March 6, 2003.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Air pollution control, Gasoline, Incorporation by reference, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 30, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 86—CONTROL OF EMISSIONS FROM NEW AND IN-USE HIGHWAY VEHICLES AND ENGINES

■ 1. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 2. Section 86.1(b)(2) table is amended by adding the following entries to the end of the table.

§ 86.1 Reference materials.

* * * * *

(b) * * *

(2) * * *

Document No. and name	40 CFR part 86 reference
* * *	* *
SAE Recommended Practice J1930 (Revised, May, 1998), Electrical/ Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms.	86.096–38; 86.004–38; 86.007–38; 86.1808–01; 86.1808–07.

Document No. and name	40 CFR part 86 reference
SAE Recommended Practice J1979 (Revised, September, 1997), E/E Diagnostic Test Modes.	86.096–38; 86.004–38; 86.007–38; 86.1808–01; 86.1808–07.
SAE Recommended Practice J2284–3 (May, 2001), High Speed CAN (HSC) for Vehicle Applications at 500 KBPS.	86.096–38; 86.004–38; 86.007–38; 86.1808–01; 86.1808–07.
SAE Recommended Practice J2534 (February, 2002), Recommended Practice for Pass-Thru Vehicle Programming.	86.096–38; 86.004–38; 86.007–38; 86.1808–01; 86.1808–07.

* * * * *

■ 3. Section 86.094–38 is amended by adding paragraph (g)(21) to read as follows:

§ 86.094–38 Maintenance instructions.

* * * * *

(g) * * *

(21) Beginning December 24, 2003, rather than meeting the requirements of paragraphs (g)(5) through (g)(9) of this section, a manufacturer must upload the required information in full text on its manufacturer-specific Web site as required in § 86.096–38 (g)(3), except that for models not covered by § 86.096–38 but covered by § 86.094–38, a manufacturer may upload an index of the required information on its Web site consistent with paragraphs (g)(5), (g)(6), and (g)(9) of this section. Manufacturers who upload an index must allow parties identified in paragraph (g)(1) of this section to obtain information listed in the index either directly from the Web site, or from an alternate source whose telephone number is listed on the manufacturer Web site, or from a Web site hyperlinked to the manufacturer Web site. Manufacturers must also provide the price of each item listed, as well as the price of items ordered on a subscription basis. To the extent that any additional information is added or changed for these model years, manufacturers shall update the index as appropriate. Manufacturers will be responsible for ensuring that all requested information, whether requested directly from the manufacturer or the manufacturer's information distributors shall be distributed within one regular business day of receiving the order. Items that are less than 20 pages (*e.g.* technical service bulletins) shall be faxed, if requested, to the requestor and manufacturers are required to deliver the information overnight if requested and paid for by the ordering party.

■ 4–6. Section 86.096–38 is added to read as follows:

§ 86.096–38 Maintenance instructions.

This section includes text that specifies requirements that differ from those specified in § 86.087–38. Where a paragraph in § 86.087–38 is identical and applicable to § 86.096–38, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.087–38.''

(a) through (f) [Reserved]. For guidance see § 86.087–38.

(g) Emission control diagnostic service information:

(1) Manufacturers are subject to the provisions of this paragraph (g) beginning in the 1996 model year for manufacturers of light-duty vehicles and light-duty trucks, and beginning in the 2005 model year for manufacturers of heavy-duty vehicles and heavy-duty engines weighing 14,000 pounds gross vehicle weight (GVW) and less that are subject to the OBD requirements of this part.

(2) *General requirements.* (i) Manufacturers shall furnish or cause to be furnished to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, or the Administrator upon request, any and all information needed to make use of the on-board diagnostic system and such other information, including instructions for making emission-related diagnoses and repairs, including but not limited to service manuals, technical service bulletins, recall service information, bi-directional control information, and training information, unless such information is protected by section 208(c) of the Act as a trade secret. No such information may be withheld under section 208(c) of the Act if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.

(ii) *Definitions.* The following definitions apply for this paragraph (g):

(A) Aftermarket service provider means any individual or business engaged in the diagnosis, service, and repair of a motor vehicle or engine, who is not directly affiliated with a manufacturer or manufacturer-franchised dealership.

(B) Bi-directional control means the capability of a diagnostic tool to send messages on the data bus that temporarily overrides the module's control over a sensor or actuator and gives control to the diagnostic tool operator. Bi-directional controls do not create permanent changes to engine or component calibrations.

(C) Data stream information means information (*i.e.*, messages and parameters) originated within the vehicle by a module or intelligent sensors (*i.e.*, a sensor that contains and is controlled by its own module) and transmitted between a network of modules and/or intelligent sensors connected in parallel with either one or more communication wires. The information is broadcast over the communication wires for use by the OBD system to gather information on emissions-related components or systems and from other vehicle modules that may impact emissions, including but not limited to systems such as chassis or transmission. For the purposes of this section, data stream information does not include engine calibration-related information, or any data stream information from systems or modules that do not impact emissions.

(D) Emissions-related information means any information related to the diagnosis, service, and repair of emissions-related components. Emissions-related information includes, but is not limited to, information regarding any system, component or part of a vehicle that controls emissions and any system, component and/or part associated with the powertrain system, including, but not limited to:

(*1*) The engine, the fuel system and ignition system,

(*2*) Information for any system, component or part that is likely to impact emissions, such as transmission systems, and any other information specified by the Administrator to be relevant to the diagnosis and repair of an emissions-related problem; and

(*3*) Any other information specified by the Administrator to be relevant for the diagnosis and repair of an emissions-related failure found through the inspection and maintenance program after such finding has been communicated to the affected manufacturer(s).

(E) Emissions-related training information means any information-related training or instruction for the purpose of the diagnosis, service, and repair of emissions-related components.

(F) Enhanced service and repair information means information which is specific for an original equipment manufacturer's brand of tools and equipment. This includes computer or anti-theft system initialization information necessary for the

completion of any emissions-related repair on motor vehicles that employ integral vehicle security systems.

(G) Equipment and tool company means a registered automotive equipment or software company either public or private that is engaged in, or plans to engage in, the manufacture of automotive scan tool reprogramming equipment or software.

(H) Generic service and repair information means information which is not specific for an original equipment manufacturer's brand of tools and equipment.

(I) Indirect information means any information that is not specifically contained in the service literature, but is contained in items such as tools or equipment provided to franchised dealers (or others). This includes computer or anti-theft system initialization information necessary for the completion of any emissions-related repair on motor vehicles that employ integral vehicle security systems.

(J) Intermediary means any individual or entity, other than an original equipment manufacturer, which provides service or equipment to aftermarket service providers.

(K) Manufacturer-franchised dealership means any service provider with which a manufacturer has a direct business relationship.

(L) Third-party information provider means any individual or entity, other than an original equipment manufacturer, who consolidates manufacturer service information and makes this information available to aftermarket service providers.

(M) Third-party training provider means any individual or entity, other than an original equipment manufacturer who develops and/or delivers instructional and educational material for automotive training courses.

(3) *Information dissemination.* By December 24, 2003, each manufacturer shall provide or cause to be provided to the persons specified in paragraph (g)(2)(i) of this section and to any other interested parties a manufacturer-specific World Wide Web site containing the information specified in paragraph (g)(2)(i) of this section for 1996 and later model year vehicles which have been offered for sale; this requirement does not apply to indirect information, including the information specified in paragraphs (g)(12) through (g)(16) of this section. Upon request and approval of the Administrator, manufacturers who can demonstrate significant hardship in complying with this provision within four months after the effective date may request an additional six months lead time to meet this requirement. Each manufacturer Web site shall:

(i) Provide access in full-text to all of the information specified in paragraph (g)(5) of this section.

(ii) Be updated at the same time as manufacturer-franchised dealership World Wide Web sites;

(iii) Provide users with a description of the minimum computer hardware and software needed by the user to access that manufacturer's information (*e.g.*, computer processor speed and operating system software). This description shall appear when users first log-on to the home page of the manufacturer Web site.

(iv) Provide Short-Term (24 to 72 hours), Mid-Term (30 day period), and Long-Term (365 day period) Web site subscription options to any person specified in paragraph (g)(2)(i) of this section whereby the user will be able to access the site, search for the information, and purchase, view and print the information at a fair and reasonable cost as specified in paragraph (g)(7) of this section for each of the subscription options. In addition, for each of the subscription options, manufacturers are required to make their entire site accessible for the respective period of time and price. In other words, a manufacturer may not limit any or all of the subscription options to just one make or one model.

(v) Allow the user to search the manufacturer Web site by various topics including but not limited to model, model year, key words or phrases, etc., while allowing ready identification of the latest vehicle calibration. Manufacturers who do not use model year to classify their vehicles in their service information may use an alternate vehicle delineation such as body series. Any manufacturer utilizing this flexibility shall create a cross-reference to the corresponding model year and provide this cross-reference on the manufacturer Web site home page.

(vi) Provide accessibility using common, readily available software and shall not require the use of software, hardware, viewers, or browsers that are not readily available to the general public. Manufacturers shall also provide hyperlinks to any plug-ins, viewers or browsers (*e.g.* Adobe Acrobat or Netscape) needed to access the manufacturer Web site.

(vii) Allow simple hyper-linking to the manufacturer Web site from government Web sites and automotive-related Web sites.

(viii) Allow access to the manufacturer Web site with no limits on the modem speed by which aftermarket service providers or other interested parties can connect to the manufacturer Web site.

(ix) Possess sufficient server capacity to allow ready access by all users and have sufficient capacity to assure that all users may obtain needed information without undue delay.

(x) Correct or delete broken Web links on a weekly basis.

(xi) Allow for Web site navigation that does not require a user to return to the manufacturer home page or a search engine in order to access a different portion of the site.

(xii) Allow users to print out any and all of the materials required to be made available on the manufacturer Web site including the ability to print it at the user's location.

(4) *Small volume provisions for information dissemination.* (i) Manufacturers with annual sales of less than 5,000 vehicles shall have until June 28, 2004 to launch their individual Web sites as required by paragraph (g)(3) of this section.

(ii) Manufacturers with annual sales of less than 1,000 vehicles may, in lieu of meeting the requirement of paragraph (g)(3) of this section, request the Administrator to approve an alternative method by which the required emissions-related information can be obtained by the persons specified in paragraph (g)(2)(i) of this section.

(5) *Required information.* All information relevant to the diagnosis and completion of emissions-related repairs shall be posted on manufacturer Web sites. This excludes indirect information specified in paragraphs (g)(6) and (g)(12) through (g)(16) of this section. To the extent that this information does not already exist in some form for their manufacturer franchised dealerships, manufacturers are required to develop and make available the information required by this section to both their manufacturer franchised dealerships and the aftermarket. The required information includes, but is not limited to:

(i) Manuals, including subsystem and component manuals developed by a manufacturer's third party supplier that are made available to manufacturer franchised dealerships, technical service bulletins (TSBs), recall service information, diagrams, charts, and training materials. Manuals and other such service information from third party suppliers are not required to be made available in full-text on manufacturer Web sites as described in paragraph (g)(3) of this section. Rather, manufacturers must make available on the manufacturer Web site as required by paragraph (g)(3) of this section an index of the relevant information and

instructions on how to order such third party information. In the alternative, a manufacturer can create a link from its Web site to the Web site(s) of the third party supplier.

(ii) OBD system information which includes, but is not limited to, the following:

(A) A general description of the operation of each monitor, including a description of the parameter that is being monitored;

(B) A listing of all typical OBD diagnostic trouble codes associated with each monitor;

(C) A description of the typical enabling conditions (either generic or monitor-specific) for each monitor (if equipped) to execute during vehicle operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup. In addition, manufacturers shall list all monitor-specific OBD drive cycle information for all major OBD monitors as equipped including, but not limited to, catalyst, catalyst heater, oxygen sensor, oxygen sensor heater, evaporative system, exhaust gas re-circulation (EGR), secondary air, and air conditioning system. Additionally, for diesel vehicles under 14,000 pounds. GVWR which also perform misfire, fuel system and comprehensive component monitoring under specific driving conditions (*i.e.*, non-continuous monitoring; as opposed to spark ignition engines that monitor these systems under all conditions or continuous monitoring), the manufacturer shall make available monitor-specific drive cycles. Any manufacturer who develops generic drive cycles, either in addition to, or instead of, monitor-specific drive cycles shall also make these available in full-text on manufacturer Web sites;

(D) A listing of each monitor sequence, execution frequency and typical duration;

(E) A listing of typical malfunction thresholds for each monitor;

(F) For OBD parameters for specific vehicles that deviate from the typical parameters, the OBD description shall indicate the deviation and provide a separate listing of the typical values for those vehicles;

(G) Identification and scaling information necessary to interpret and understand data available to a generic scan tool through ''mode 6,'' pursuant to Society of Automotive Engineers SAE J1979, ''EE Diagnostic Test Modes'' (Incorporated by reference, *see* § 86.1).

(H) Algorithms, look-up tables, or any values associated with look-up tables are not required to be made available.

(iii) Any information regarding any system, component, or part of a vehicle monitored by the OBD system that could in a failure mode cause the OBD system to illuminate the malfunction indicator light (MIL);

(iv) Any information on other systems that can effect the emission system within a multiplexed system (including how information is sent between emission-related system modules and other modules on a multiplexed bus);

(v) Manufacturer-specific emissions-related diagnostic trouble codes (DTCs) and any related service bulletins, trouble shooting guides, and/or repair procedures associated with these manufacturer-specific DTCs; and

(vi) Information regarding how to obtain the information needed to perform reinitialization of any vehicle computer or anti-theft system following an emissions-related repair.

(6) *Anti-theft system initialization information.* Computer or anti-theft system initialization information and/or related tools necessary for the proper installation of on-board computers or necessary for the completion of any emissions-related repair on motor vehicles that employ integral vehicle security systems or the repair or replacement of any other emission-related part shall be made available at a fair and reasonable cost to the persons specified in paragraph (g)(2)(i) of this section.

(i) Except as provided under paragraph (g)(6)(ii) of this section, manufacturers must make this information available to persons specified in paragraph (g)(2)(i) of this section, such that such persons will not need any special tools or manufacturer-specific scan tools to perform the initialization. Manufacturers may make such information available through, for example, generic aftermarket tools, a pass-through device, or inexpensive manufacturer-specific cables.

(ii) A manufacturer may request Administrator approval for an alternative means to re-initialize vehicles for some or all model year vehicles through the 2007 model year by 1 month following the effective date of the final rule. The Administrator shall approve the request only after the following conditions have been met:

(A) The manufacturer must demonstrate that the availability of such information to aftermarket service providers would significantly increase the risk of vehicle theft.

(B) The manufacturer must make available a reasonable alternative means to install or repair computers, or to otherwise repair or replace an emission-related part.

(C) Any alternative means proposed by a manufacturer cannot require aftermarket technicians to use a manufacturer franchised dealership to obtain information or special tools to re-initialize the anti-theft system. All information must come directly from the manufacturer or a single manufacturer-specified designee.

(D) Any alternative means proposed by an manufacturer must be available to aftermarket technicians at a fair and reasonable price.

(E) Any alternative must be available to aftermarket technicians within twenty-four hours of the initial request.

(F) Any alternative must not require the purchase of a special tool or tools, including manufacturer-specific tools, to complete this repair. Alternatives may include lease of such tools, but only for appropriately minimal cost.

(G) In lieu of leasing their manufacturer-specific tool to meet this requirement, a manufacturer may also release the necessary information to equipment and tool manufacturers for incorporation into aftermarket scan tools. Any manufacturer choosing this option must release the information to equipment and tool manufacturers within 60 days of Administrator approval. Manufacturers may also comply with this requirement using SAE J2534 for some or all model years through model year 2007.

(7) *Cost of required information.* (i) All information required to be made available by this section shall be made available at a fair and reasonable price. In determining whether a price is fair and reasonable, considerationmay be given to relevant factors, including, but not limited to, the following:

(A) The net cost to the manufacturer-franchised dealerships for similar information obtained from manufacturers, less any discounts, rebates, or other incentive programs.

(B) The cost to the manufacturer for preparing and distributing the information, excluding any research and development costs incurred in designing and implementing, upgrading or altering the onboard computer and its software or any other vehicle part or component. Amortized capital costs for the preparation and distribution of the information may be included.

(C) The price charged by other manufacturers for similar information.

(D) The price charged by manufacturers for similar information prior to the launch of manufacturer Web sites.

(E) The ability of aftermarket technicians or shops to afford the information.

(F) The means by which the information is distributed;

(G) The extent to which the information is used, which includes the number of users, and frequency, duration, and volume of use.

(H) Inflation.

(ii) By August 25, 2003, each manufacturer shall submit to the Administrator a request for approval of their pricing structure for their Web sites and amounts to be charged for the information required to be made available under paragraphs (g)(3) and (g)(5) of this section. Subsequent to the approval of the manufacturer Web site pricing structure, manufacturers shall notify the Administrator upon the increase in price of any one or all of the subscription options of 20 percent or more above the previously-approved price, taking inflation into account.

(A) The manufacturer shall submit a request to the Administrator that sets forth a detailed description of the pricing structure and amounts, and support for the position that the pricing structure and amounts are fair and reasonable by addressing, at a minimum, each of the factors specified in paragraph (g)(7)(i) of this section.

(B) The Administrator will act upon the request within 180 days following receipt of a complete request or following receipt of any additional information requested by the Administrator.

(C) The Administrator may decide not to approve, or to withdraw approval for a manufacturer's pricing structure and amounts based on a conclusion that this pricing structure and/or amounts are not, or are no longer, fair and reasonable, by sending written notice to the manufacturer explaining the basis for this decision.

(D) In the case of a decision by the Administrator not to approve or to withdraw approval, the manufacturer shall within three months following notice of this decision, obtain Administrator approval for a revised pricing structure and amounts by following the approval process described in this paragraph (g)(7)(ii).

(8) *Unavailable information.* Any information which is not provided at a fair and reasonable price shall be considered unavailable, in violation of these regulations and section 202(m)(5) of the Clean Air Act.

(9) *Third-party information providers.* By December 24, 2003, manufacturers shall, for model year 2004 and later vehicles and engines, make available to third-party information providers as defined in paragraph (g)(2)(ii) of this section with whom they engage in licensing or business arrangements;

(i) The required emissions-related information as specified in paragraph (g)(5) of this section either:

(A) Directly in electronic format such as diskette or CD-ROM using non-proprietary software, in English; or

(B) Indirectly via a Web site other than that required by paragraph (g)(3) of this section;

(ii) For any manufacturer who utilizes an automated process in their manufacturer-specific scan tool for diagnostic fault trees, the data schema, detail specifications, including category types/codes and vehicle codes, and data format/content structure of the diagnostic trouble trees.

(iii) Manufacturers can satisfy the requirement of paragraph (g)(9)(ii) of this section by making available diagnostic trouble trees on their manufacturer Web sites in full-text.

(iv) Manufacturers are not responsible for the accuracy of the information distributed by third parties. However, where manufacturers charge information intermediaries for information, whether through licensing agreements or other arrangements, manufacturers are responsible for inaccuracies contained in the information they provide to third-party information providers.

(10) *Required emissions-related training information.* By December 24, 2003, for emissions-related training information, manufacturers shall:

(i) Video tape or otherwise duplicate and make available for sale on manufacturer Web sites within 30 days after transmission any emissions-related training courses provided to manufacturer franchised dealerships via the Internet or satellite transmission;

(ii) Provide on the manufacturer Web site an index of all emissions-related training information available for purchase by aftermarket service providers for 1994 and newer vehicles. For model years subsequent to 2003, the required information must be made available for purchase within 3 months of model introduction and then must be made available at the same time it is made available to manufacturer franchised dealerships, whichever is earlier. The index shall describe the title of the course or instructional session, the cost of the video tape or duplicate, and information on how to order the item(s) from the manufacturer Web site. All of the items available must be shipped within 24 hours of the order being placed and are to be made available at a fair and reasonable price as described in paragraph (g)(7) of this section. Manufacturers unable to meet the 24 hour shipping requirement under circumstances where orders exceed supply and additional time is needed by the distributor to reproduce the item being ordered, may exceed the 24 hour shipping requirement, but in no instance can take longer than 14 days to ship the item.

(iii) Provide access to third-party training providers as defined in paragraph (g)(2)(ii) of this section all emission-related training courses transmitted via satellite or Internet offered to their manufacturer franchised dealerships. Manufacturers may not charge unreasonable up-front fees to third-party training providers for this access, but may require a royalty, percentage, or other arranged fee based on per-use enrollment/subscription basis. Manufacturers may take reasonable steps to protect any copyrighted information and are not required to provide this information to parties that do not agree to such steps.

(11) *Timeliness and maintenance of information dissemination.* (i) General Requirements. Subsequent to the initial launch of the manufacturer's Web site, manufacturers must make the information required under paragraph (g)(5) of this section available on their Web site within six months of model introduction, or at the same time it is made available to manufacturer franchised dealerships, whichever is earlier. After this six-month period, the information must be available and updated on the manufacturer Web site at the same time that the updated information is made available to manufacturer franchised dealerships, except as otherwise specified in this section.

(ii) *Archived information.* Beginning with the 1996 model year, manufacturers must maintain the required information on their Web sites in full-text as defined in paragraph (g)(5) of this section for a minimum of 15 years after model introduction. Subsequent to this fifteen year period, manufacturers may archive the information in the manufacturer's format of choice and provide an index of the archived information on the manufacturer Web site and how it can be obtained by interested parties. Manufacturers shall index their available information with a title that adequately describes the contents of the document to which it refers. Manufacturers may allow for the ordering of information directly from their Web site, or from a Web site hyperlinked to the manufacturer Web site. In the alternative, manufacturers shall list a phone number and address where aftermarket service providers can call or write to obtain the desired information. Manufacturers must also

provide the price of each item listed, as well as the price of items ordered on a subscription basis. To the extent that any additional information is added or changed for these model years, manufacturers shall update the index as appropriate. Manufacturers will be responsible for ensuring that all information, including information that is distributed through information distributors, is provided within one regular business day of receiving the order. Items that are less than 20 pages (*e.g.* technical service bulletins) shall be faxed, if requested, to the requestor and manufacturers are required to deliver the information overnight if requested and paid for by the ordering party. Archived information must be made available on demand and at a fair and reasonable price.

(12) *Reprogramming information.* (i) For model years 1996 and later, manufacturers shall make available to the persons specified in paragraph (g)(2)(i) of this section all emissions-related recalibration or reprogramming events (including driveability reprogramming events that may affect emissions) in the format of its choice at the same time they are made available to manufacturer franchised dealerships. This requirement takes effect on September 25, 2003, and within 3 months of model introduction for all new model years.

(ii) For model years 1996 and later manufacturers shall provide persons specified in paragraph (g)(2)(i) of this section with an efficient and cost-effective method for identifying whether the calibrations on vehicles are the latest to be issued. This requirement takes effect on September 25, 2003, and within 3 months of model introduction for all new model years.

(iii) For all 2004 and later OBD vehicles equipped with reprogramming capability, manufacturers shall comply with SAE J2534 (Incorporated by reference, *see* § 86.1). Any manufacturer who cannot comply with SAE J2534 in model year 2004 may request one year additional lead time from the Administrator.

(iv) For model years 2004 and later, manufacturers shall make available to aftermarket service providers the necessary manufacturer-specific software applications and calibrations needed to initiate pass-through reprogramming. This software shall be able to run on a standard personal computer that utilizes standard operating systems as specified in SAE J2534 (Incorporated by reference, see § 86.1).

(v) For model years prior to 2004, manufacturers may use SAE J2534 as described above, provided they make available to the aftermarket any additional required hardware (*i.e.* cables). Manufacturers may not require the purchase or use of a manufacturer-specific scan tool to receive or use this additional hardware. Manufacturers must also make available the necessary manufacturer-specific software applications and calibrations needed to initiate pass-through reprogramming. Manufacturers must also make available to equipment and tool companies any information needed to develop aftermarket equivalents of the manufacturer-specific hardware.

(vi) Manufacturers may take any reasonable business precautions necessary to protect proprietary business information and are not required to provide this information to any party that does not agree to these reasonable business precautions. The requirement to make hardware available and to release the information to equipment and tool companies takes effect on September 25, 2003, and within 3 months of model introduction for all new model years.

(vii) Manufacturers who cannot comply with paragraphs (g)(12)(v) and (g)(12)(vi) of this section shall make available to equipment and tool companies by September 25, 2003 the following information necessary for reprogramming the Electronic Control Unit (ECU):

(A) The physical hardware requirements for reprogramming events or tools (*e.g.* system voltage requirements, cable terminals/pins, connections such as RS232 or USB, wires, *etc.*).

(B) ECU data communication (*e.g.* serial data protocols, transmission speed or baud rate, bit timing requirements, *etc.*).

(C) Information on the application physical interface (API) or layers (descriptions for procedures such as connection, initialization, performing and verifying programming/download, and termination).

(D) Vehicle application information or any other related service information such as special pins and voltages for reprogramming events or additional vehicle connectors that require enablement and specifications for the enablement.

(E) Information that describes what interfaces or combinations of interfaces are used to deliver calibrations from database media (*e.g.* PC using CDROM to the reprogramming device *e.g.* scan tool or black box).

(viii) A manufacturer can propose an alternative to the requirements of paragraph (g)(12)(vii) of this section for how aftermarket service providers can reprogram an ECU. The Administrator will approve this alternative if the manufacturer demonstrates all of the following:

(A) That it cannot comply with paragraph (g)(12)(v) of this section for the vehicles subject to the alternative plan;

(B) That a very small percentage of its vehicles in model years prior to 2004 cannot be reprogrammed with the provisions described in paragraph (g)(12)(v) of this section, or that releasing the information to tool companies would likely not result in this information being incorporated into aftermarket tools; and

(C) That aftermarket service providers will be able to reprogram promptly at a reasonable cost.

(ix) In meeting the requirements of paragraphs (g)(12)(v) through (g)(12)(vii) of this section, manufacturers may take any reasonable business precautions necessary to protect proprietary business information and are not required to provide this information to any party that does not agree to these reasonable business precautions.

(13) *Generic and enhanced information for scan tools.* By September 25, 2003, manufacturers shall make available to equipment and tool companies all generic and enhanced service information including bi-directional control and data stream information as defined in paragraph (g)(2)(ii) of this section. This requirement applies for 1996 and later model year vehicles.

(i) The information required by paragraph (g)(13) of this section shall be provided electronically using common document formats to equipment and tool companies with whom they have appropriate licensing, contractual, and/or confidentiality arrangements. To the extent that a central repository for this information (*e.g.* the TEK–NET library developed by the Equipment and Tool Institute) is used to warehouse this information, the Administrator shall have free unrestricted access. In addition, information required in paragraph (g)(13) of this section shall be made available to equipment and tool companies who are not otherwise members of any central repository and shall have access if the non-members have arranged for the appropriate licensing, contractual and/or confidentiality arrangements with the manufacturer and/or a central repository.

(ii) In addition to the generic and enhanced information defined in paragraph (g)(2)(ii) of this section, manufacturers shall also make available

the following information necessary for developing generic diagnostic scan tools:

(A) The physical hardware requirements for data communication (*e.g.* system voltage requirements, cable terminals/pins, connections such as RS232 or USB, wires, etc.),

(B) ECU data communication (*e.g.* serial data protocols, transmission speed or baud rate, bit timing requirements, *etc.*),

(C) Information on the application physical interface (API) or layers. (*i.e.*, processing algorithms or software design descriptions for procedures such as connection, initialization, and termination),

(D) Vehicle application information or any other related service information such as special pins and voltages or additional vehicle connectors that require enablement and specifications for the enablement.

(iii) Any manufacturer who utilizes an automated process in its manufacturer-specific scan tool for diagnostic fault trees shall make available to equipment and tool companies the data schema, detail specifications, including category types/codes and vehicle codes, and data format/content structure of the diagnostic trouble trees.

(iv) Manufacturers can satisfy the requirement of paragraph (g)(13)(iii) of this section by making available diagnostic trouble trees on their manufacturer Web sites in full-text.

(14) *Availability of manufacturer-specific scan tools.* Manufacturers shall make available for sale to the persons specified in paragraph (g)(2)(i) of this section their own manufacturer-specific diagnostic tools at a fair and reasonable cost. These tools shall also be made available in a timely fashion either through the manufacturer Web site or through a manufacturer-designated intermediary. Manufacturers who develop different versions of one or more of their diagnostic tools that are used in whole or in part for emission-related diagnosis and repair shall insure that all emission-related diagnosis and repair information is available for sale to the aftermarket at a fair and reasonable cost. Manufacturers shall provide technical support to aftermarket service providers for the tools described in this section, either themselves or through a third party of its choice. Factors for determining fair and reasonable cost include, but are not limited to:

(i) The net cost to the manufacturer's franchised dealerships for similar tools obtained from manufacturers, less any discounts, rebates, or other incentive programs;

(ii) The cost to the manufacturer for preparing and distributing the tools, excluding any research and development costs;

(iii) The price charged by other manufacturers of similar sizes for similar tools;

(iv) The capabilities and functionality of the manufacturer tool;

(v) The means by which the tools are distributed;

(vi) Inflation.

(vii) The ability of aftermarket technicians and shops to afford the tools.

(15) *Changing content of manufacturer-specific scan tools.* Manufacturers who opt to remove non-emissions related content from their manufacturer-specific scan tools and sell them to the persons specified in paragraph (g)(2)(i) of this section shall adjust the cost of the tool accordingly lower to reflect the decreased value of the scan tool. All emissions-related content that remains in the manufacturer-specific tool shall be identical to the information that is contained in the complete version of the manufacturer specific tool. Any manufacturer who wishes to implement this option must request approval from the Administrator prior to the introduction of the tool into commerce.

(16) *Special tools.* (i) Manufacturers who have developed special tools to extinguish the malfunction indicator light (MIL) for Model Years 1994 through 2003 shall make available the necessary information to equipment and tool companies to design a comparable generic tool. This information shall be made available to equipment and tool companies no later than September 25, 2003.

(ii) Manufacturers are prohibited from requiring special tools to extinguish the malfunction indicator light (MIL) beginning with Model Year 2004.

(17) *Reference materials.* Manufacturers shall conform with the following Society of Automotive Engineers (SAE) standards.

(i) For Web-based delivery of service information, manufacturers shall comply with SAE Recommended Practice J1930 (Revised, May 1998), ''Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms'' (Incorporated by reference, *see* § 86.1). This recommended practice standardizes various terms, abbreviations, and acronyms associated with on-board diagnostics. Manufacturers shall comply with SAE J1930 beginning with Model Year 2004.

(ii) For identification and scaling information necessary to interpret and understand data available to a generic scan tool through ''mode 6,'' manufacturers shall comply with SAE Recommended Practice J1979 (Revised, September, 1997), ''EE Diagnostic Test Modes'' (Incorporated by reference, *see* § 86.1). This recommended practice describes the implementation of the diagnostic test modes for emissions-related test data. Manufacturers shall comply with SAE J1979 (Incorporated by reference, *see* § 86.1) beginning with Model Year 2004.

(iii) For allowing ECU and equipment and tool manufacturers to satisfy the needs of multiple end users with minimum modification to a basic ECU design, manufacturers shall comply with ''Recommended Practice J2284–3 (May, 2001), ''High Speed CAN (HSC) for Vehicle Applications at 500 KBPS'' (Incorporated by reference, see § 86.1). SAE J2284–3 establishes standard ECU physical layer, data link layer, and media design criteria. Manufacturers may comply with SAE J2284–3 beginning with model year 2003 and shall comply with SAE J2284–3 beginning with model year 2008.

(iv) For pass-through reprogramming capabilities, manufacturers shall comply with SAE Recommended Practice J2534 (February, 2002), ''Recommended Practice for Pass-Thru Vehicle Programming'' (Incorporated by reference, *see* § 86.1). This recommended practice provides technical specifications and information that manufacturers must supply to equipment and tool companies to develop aftermarket pass-through reprogramming tools. Manufacturers shall comply with SAE J2534 beginning with model year 2004.

(18) *Reporting requirements.* Manufacturers shall provide to the Administrator reports on an annual basis within 30 days of the end of the calendar year and upon request of the Administrator, that describe the performance of their individual Web sites. These annual reports shall be submitted to the Administrator electronically utilizing non-proprietary software in the format as agreed to by the Administrator and the manufacturers. Manufacturers may request Administrator approval to report on parameters other than those described below if the manufacturer can demonstrate that those alternate parameters will provide sufficient and similar information for the Administrator to effectively evaluate the manufacturer Web site. These annual reports shall include, at a minimum, monthly measurements of the following parameters:

(i) Total successful requests (measured in number of files including graphic interchange formats (GIFs) and joint photographic expert group (JPEG) images, *i.e.* electronic images such as wiring or other diagrams or pictures). This is defined as the total successful request counts of all the files which have been requested, including pages, graphics, etc.

(ii) Total failed requests (measured in number of files). This is defined as the total failed request counts of all the files which were requested but failed because they could not be found or were read-protected. This includes pages, graphics, etc.

(iii) Average data transferred per day (measured by bytes). This is defined as average amount of data transferred per day from one place to another.

(iv) Daily Summary (measured in number of files/pages by day of week). This is defined as the total number of requests each day of the week, over the time period given at the beginning of the report.

(v) Daily report (measured in number of files/pages by the day of the month). This is defined as how many requests there were in each day of a specific month.

(vi) Browser Summary (measured in number of files/pages by browser type, *i.e.*, Netscape, Internet Explorer). This is defined as the versions of a browser by vendor.

(vii) Any other information deemed necessary by the Administrator to determine the adequacy of a manufacturer Web site.

(19) *Prohibited acts, liability and remedies.* (i) It is a prohibited act for any person to fail to promptly provide or cause a failure to promptly provide information as required by this paragraph (g), or to otherwise fail to comply or cause a failure to comply with any provision of this paragraph (g).

(ii) Any person who fails or causes the failure to comply with any provision of this paragraph (g) is liable for a violation of that provision. A corporation is presumed liable for any violations of this subpart that are committed by any of its subsidiaries, affiliates or parents that are substantially owned by it or substantially under its control.

(iii) Any person who violates a provision of this paragraph (g) shall be subject to a civil penalty of not more than $ 31,500 per day for each violation. This maximum penalty is shown for calendar year 2002. Maximum penalty limits for later years may be set higher based on the Consumer Price Index, as specified in 40 CFR part 19. In addition, such person shall be liable for all other remedies set forth in Title II of the Clean Air Act, remedies pertaining to provisions of Title II of the Clean Air Act, or other applicable provisions of law.

■ 7. Section 86.004–38 is amended by revising the introductory text of this section and paragraph (g) to read as follows:

§ 86.004–38 Maintenance instructions.

This section includes text that specifies requirements that differ from those specified in § 86.096–38. Where a paragraph in § 86.096–38 is identical and applicable to § 86.004–38, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance *see* § 86.096–38.''.

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(g) [Reserved]. For guidance see § 86.096–38. For incorporation by reference *see* §§ 86.1 and 86.096–38.

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■ 8. Section 86.007–38 is amended by revising the introductory text of this section and paragraph (g) to read as follows:

§ 86.007–38 Maintenance instructions.

This section includes text that specifies requirements that differ from those specified in § 86.096–38 or § 86.004–38. Where a paragraph in § 86.096–38 or § 86.004–38 is identifical and applicable to § 86.007–38, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance *see* § 86.096–38., or [Reserved]. For guidance *see* § 86.004–38.''.

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(g) [Reserved]. For guidance see § 86.096–38. For incorporation by reference see §§ 86.1 and 86.096–38.

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■ 9. Section 86.1801–01 is amended by revising paragraph (f) to read as follows:

§ 86.1808–01 Maintenance instructions.

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(f) Emission control diagnostic service information:

(1) Manufacturers are subject to the provisions of this paragraph (f) beginning in the 2001 model year for manufacturers of light-duty vehicles and light-duty trucks, and beginning in the 2005 model year for manufacturers of heavy-duty vehicles and heavy-duty engines weighing 14,000 pounds gross vehicle weight (GVW) and less that are subject to the OBD requirements of this part.

(2) *General requirements.* (i) Manufacturers shall furnish or cause to be furnished to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, or the Administrator upon request, any and all information needed to make use of the on-board diagnostic system and such other information, including instructions for making emission-related diagnoses and repairs, including but not limited to service manuals, technical service bulletins, recall service information, bi-directional control information, and training information, unless such information is protected by section 208(c) of the Act as a trade secret. No such information may be withheld under section 208(c) of the Act if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.

(ii) *Definitions.* The following definitions apply for this paragraph (f):

(A) Aftermarket service provider means any individual or business engaged in the diagnosis, service, and repair of a motor vehicle or engine, who is not directly affiliated with a manufacturer or manufacturer-franchised dealership.

(B) Bi-directional control means the capability of a diagnostic tool to send messages on the data bus that temporarily overrides the module's control over a sensor or actuator and gives control to the diagnostic tool operator. Bi-directional controls do not create permanent changes to engine or component calibrations.

(C) Data stream information means information (*i.e.*, messages and parameters) originated within the vehicle by a module or intelligent sensors (*i.e.*, a sensor that contains and is controlled by its own module) and transmitted between a network of modules and/or intelligent sensors connected in parallel with either one or more communication wires. The information is broadcast over the communication wires for use by the OBD system to gather information on emissions-related components or systems and from other vehicle modules that may impact emissions, including but not limited to systems such as chassis or transmission. For the purposes of this section, data stream information does not include engine calibration related information, or any data stream information from systems or modules that do not impact emissions.

(D) Emissions-related information means any information related to the diagnosis, service, and repair of emissions-related components. Emissions-related information includes, but is not limited to, information regarding any system, component or

part of a vehicle that controls emissions and any system, component and/or part associated with the powertrain system, including, but not limited to:

(*1*) The engine, the fuel system and ignition system;

(*2*) Information for any system, component or part that is likely to impact emissions, such as transmission systems, and any other information specified by the Administrator to be relevant to the diagnosis and repair of an emissions-related problem; and

(*3*) Any other information specified by the Administrator to be relevant for the diagnosis and repair of an emissions-related failure found through the inspection and maintenance program after such finding has been communicated to the affected manufacturer(s).

(E) Emissions-related training information means any information related to training or instruction for the purpose of the diagnosis, service, and repair of emissions-related components.

(F) Enhanced service and repair information means information which is specific for an original equipment manufacturer's brand of tools and equipment. This includes computer or anti-theft system initialization information necessary for the completion of any emissions-related repair on motor vehicles that employ integral vehicle security systems.

(G) Equipment and tool company means a registered automotive equipment or software company either public or private that is engaged in, or plans to engage in, the manufacture of automotive scan tool reprogramming equipment or software.

(H) Generic service and repair information means information which is not specific for an original equipment manufacturer's brand of tools and equipment.

(I) Indirect information means any information that is not specifically contained in the service literature, but is contained in items such as tools or equipment provided to franchised dealers (or others). This includes computer or anti-theft system initialization information necessary for the completion of any emissions-related repair on motor vehicles that employ integral vehicle security systems.

(J) Intermediary means any individual or entity, other than an original equipment manufacturer, which provides service or equipment to aftermarket service providers.

(K) Manufacturer-franchised dealership means any service provider with which a manufacturer has a direct business relationship.

(L) Third-party information provider means any individual or entity, other than an original equipment manufacturer, who consolidates manufacturer service information and makes this information available to aftermarket service providers.

(M) Third-party training provider means any individual or entity, other than an original equipment manufacturer who develops and/or delivers instructional and educational material for automotive training courses.

(3) *Information dissemination.* By December 24, 2003, each manufacturer shall provide or cause to be provided to the persons specified in paragraph (f)(2)(i) of this section and to any other interested parties a manufacturer-specific World Wide Web site containing the information specified in paragraph (f)(2)(i) of this section for 2001 and later model year vehicles which have been offered for sale; this requirement does not apply to indirect information, including the information specified in paragraphs (f)(12) through (f)(16) of this section. Upon request and approval of the Administrator, manufacturers who can demonstrate significant hardship in complying with this provision within four months after the effective date may request an additional six months lead time to meet this requirement. Each manufacturer Web site shall:

(i) Provide access in full-text to all of the information specified in paragraph (f)(5) of this section.

(ii) Be updated at the same time as manufacturer-franchised dealership World Wide Web sites;

(iii) Provide users with a description of the minimum computer hardware and software needed by the user to access that manufacturer's information (*e.g.*, computer processor speed and operating system software). This description shall appear when users first log-on to the home page of the manufacturer's Web site.

(iv) Provide Short-Term (24 to 72 hours), Mid-Term (30-day period), and Long-Term (365-day period) Web site subscription options to any person specified in paragraph (f)(2)(i) of this section whereby the user will be able to access the site, search for the information, and purchase, view and print the information at a fair and reasonable cost as specified in paragraph (f)(7) of this section for each of the options. In addition, for each of the subscription options, manufacturers are required to make their entire site accessible for the respective period of time and price. In other words, a manufacturer may not limit any or all of the subscription options to just one make or one model.

(v) Allow the user to search the manufacturer Web site by various topics including but not limited to model, model year, key words or phrases, *etc.,* while allowing ready identification of the latest vehicle calibration. Manufacturers who do not use model year to classify their vehicles in their service information may use an alternate vehicle delineation such as body series. Any manufacturer utilizing this flexibility shall create a cross-reference to the corresponding model year and provide this cross-reference on the manufacturer Web site home page.

(vi) Provide accessibility using common, readily available software and shall not require the use of software, hardware, viewers, or browsers that are not readily available to the general public. Manufacturers shall also provide hyperlinks to any plug-ins, viewers or browsers (*e.g.* Adobe Acrobat or Netscape) needed to access the manufacturer Web site.

(vii) Allow simple hyper-linking to the manufacturer Web site from government Web sites and automotive-related Web sites.

(viii) Allow access to the manufacturer Web sites with no limits on the modem speed by which aftermarket service providers or other interested parties can connect to the manufacturer Web site.

(ix) Possess sufficient server capacity to allow ready access by all users and have sufficient capacity to assure that all users may obtain needed information without undue delay.

(x) Correct or delete broken Web links on a weekly basis.

(xi) Allow for Web site navigation that does not require a user to return to the manufacturer home page or a search engine in order to access a different portion of the site.

(xii) Allow all users to print out any and all of the materials required to be made available on the manufacturers Web site, including the ability to print it at the users location.

(4) *Small volume provisions for information dissemination.* (i) Manufacturers with annual sales of less than 5,000 vehicles shall have until June 28, 2004 to launch their individual Web sites as required by paragraph (f)(3) of this section.

(ii) Manufacturers with annual sales of less than 1,000 vehicles may, in lieu of meeting the requirement of paragraph (f)(3) of this section, request the Administrator to approve an alternative method by which the required emissions-related information can be

obtained by the persons specified in paragraph (f)(2)(i) of this section.

(5) *Required information.* All information relevant to the diagnosis and completion of emissions-related repairs shall be posted on manufacturer Web sites. This excludes indirect information specified in paragraphs (f)(6) and (f)(12) through (f)(16) of this section. To the extent that this information does not already exist in some form for their manufacturer-franchised dealerships, manufacturers are required to develop and make available the information required by this section to both their manufacturer-franchised dealerships and the aftermarket. The required information includes, but is not limited to:

(i) Manuals, including subsystem and component manuals developed by a manufacturer's third party supplier that are made available to manufacturer-franchised dealerships, technical service bulletins (TSBs), recall service information, diagrams, charts, and training materials. Manuals and other such service information from third party suppliers are not required to be made available in full-text on manufacturer Web sites as described in paragraph (f)(3) of this section. Rather, manufacturers must make available on the manufacturer Web site as required by paragraph (f)(3) of this section an index of the relevant information and instructions on how to order such third party information. In the alternative, a manufacturer can create a link from its Web site to the Web site(s) of the third party supplier.

(ii) OBD system information which includes, but is not limited to, the following:

(A) A general description of the operation of each monitor, including a description of the parameter that is being monitored;

(B) A listing of all typical OBD diagnostic trouble codes associated with each monitor;

(C) A description of the typical enabling conditions (either generic or monitor-specific) for each monitor (if equipped) to execute during vehicle operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup. In addition, manufacturers shall list all monitor-specific OBD drive cycle information for all major OBD monitors as equipped including, but not limited to, catalyst, catalyst heater, oxygen sensor, oxygen sensor heater, evaporative system, exhaust gas re-circulation (EGR), secondary air, and air conditioning system. Additionally, for diesel vehicles under 14,000 pounds GVWR which also perform misfire, fuel system and comprehensive component monitoring under specific driving conditions (*i.e.,* non-continuous monitoring; as opposed to spark ignition engines that monitor these systems under all conditions or continuous monitoring), the manufacturer shall make available monitor-specific drive cycles. Any manufacturer who develops generic drive cycles, either in addition to, or instead of, monitor-specific drive cycles shall also make these available in full-text on manufacturer Web sites;

(D) A listing of each monitor sequence, execution frequency and typical duration;

(E) A listing of typical malfunction thresholds for each monitor;

(F) For OBD parameters for specific vehicles that deviate from the typical parameters, the OBD description shall indicate the deviation and provide a separate listing of the typical values for those vehicles;

(G) Identification and scaling information necessary to interpret and understand data available to a generic scan tool through ''mode 6'', pursuant to Society of Automotive Engineers SAE J1979, ''EE Diagnostic Test Modes''(Incorporated by reference, *see* § 86.1).

(H) Algorithms, look-up tables, or any values associated with look-up tables are not required to be made available.

(iii) Any information regarding any system, component, or part of a vehicle monitored by the OBD system that could in a failure mode cause the OBD system to illuminate the malfunction indicator light (MIL);

(iv) Any information on other systems that can effect the emission system within a multiplexed system (including how information is sent between emission-related system modules and other modules on a multiplexed bus);

(v) Manufacturer-specific emissions-related diagnostic trouble codes (DTCs) and any related service bulletins, trouble shooting guides, and/or repair procedures associated with these manufacturer-specific DTCs; and

(vi) Information regarding how to obtain the information needed to perform reinitialization of any vehicle computer or anti-theft system following an emissions-related repair.

(6) *Anti-theft system initialization information.* Computer or anti-theft system initialization information and/or related tools necessary for the proper installation of on-board computers or necessary for the completion of any emissions-related repair on motor vehicles that employ integral vehicle security systems or the repair or replacement of any other emission-related part shall be made available at a fair and reasonable cost to the persons specified in paragraph (f)(2)(i) of this section.

(i) Except as provided under paragraph (f)(6)(ii) of this section, manufacturers must make this information available to persons specified in paragraph (f)(2)(i) of this section, such that such persons will not need any special tools or manufacturer-specific scan tools to perform the initialization. Manufacturers may make such information available through, for example, generic aftermarket tools, a pass-through device, or inexpensive manufacturer specific cables.

(ii) A manufacturer may request Administrator approval for an alternative means to re-initialize vehicles for some or all model year vehicles through the 2007 model year by 1 month following the effective date of the final rule. The Administrator shall approve the request only after the following conditions have been met:

(A) The manufacturer must demonstrate that the availability of such information to aftermarket service providers would significantly increase the risk of vehicle theft.

(B) The manufacturer must make available a reasonable alternative means to install or repair computers, or to otherwise repair or replace an emission-related part.

(C) Any alternative means proposed by a manufacturer cannot require aftermarket technicians to use a manufacturer-franchised dealership to obtain information or special tools to re-initialize the anti-theft system. All information must come directly from the manufacturer or a single manufacturer-specified designee.

(D) Any alternative means proposed by and manufacturer must be available to aftermarket technicians at a fair and reasonable price.

(E) Any alternative must be available to aftermarket technicians within twenty-four hours of the initial request.

(F) Any alternative must not require the purchase of a special tool or tools, including manufacturer-specific tools, to complete this repair. Alternatives may include lease of such tools, but only for appropriately minimal cost.

(G) In lieu of leasing their manufacturer-specific tool to meet this requirement, a manufacturer may also release the necessary information to equipment and tool manufacturers for incorporation into aftermarket scan tools. Any manufacturer choosing this option must release the information to equipment and tool manufacturers within 60 days of Administrator approval. Manufacturers may also

comply with this requirement using SAE J2534 for some or all model years through model year 2007.

(7) *Cost of required information.* (i) All information required to be made available by this section, shall be made available at a fair and reasonable price. In determining whether a price is fair and reasonable, consideration may be given to relevant factors, including, but not limited to, the following:

(A) The net cost to the manufacturer-franchised dealerships for similar information obtained from manufacturers, less any discounts, rebates, or other incentive programs.

(B) The cost to the manufacturer for preparing and distributing the information, excluding any research and development costs incurred in designing and implementing, upgrading or altering the onboard computer and its software or any other vehicle part or component. Amortized capital costs for the preparation and distribution of the information may be included.

(C) The price charged by other manufacturers for similar information.

(D) The price charged by manufacturers for similar information prior to the launch of manufacturer Web sites.

(E) The ability of aftermarket technicians or shops to afford the information.

(F) The means by which the information is distributed.

(G) The extent to which the information is used, which includes the number of users, and frequency, duration, and volume of use.

(H) Inflation.

(ii) By August 26, 2003, each manufacturer shall submit to the Administrator a request for approval of their pricing structure for their Web sites and amounts to be charged for the information required to be made available under paragraphs (f)(3) and (f)(5) of this section. Subsequent to the approval of the manufacturer Web site pricing structure, each manufacturer shall notify the Administrator upon the increase in price of any one or all of the subscription options of 20 percent or more above the previously approved price, taking inflation into account.

(A) The manufacturer shall submit a request to the Administrator that sets forth a detailed description of the pricing structure and amounts, and support for the position that the pricing structure and amounts are fair and reasonable by addressing, at a minimum, each of the factors specified in paragraph (f)(7)(i) of this section.

(B) The Administrator will act upon on the request within 180 days following receipt of a complete request or following receipt of any additional information requested by the Administrator.

(C) The Administrator may decide not to approve, or to withdraw approval for a manufacturer's pricing structure and amounts based on a conclusion that this pricing structure and/or amounts are not, or are no longer, fair and reasonable, by sending written notice to the manufacturer explaining the basis for this decision.

(D) In the case of a decision by the Administrator not to approve or to withdraw approval, the manufacturer shall within three months following notice of this decision, obtain Administrator approval for a revised pricing structure and amounts by following the approval process described in this paragraph (f)(7)(ii).

(8) *Unavailable information.* Any information which is not provided at a fair and reasonable price shall be considered unavailable, in violation of these regulations and section 202(m)(5) of the Clean Air Act.

(9) *Third-party information providers.* By December 24, 2003, manufacturers shall, for model year 2004 and later vehicles and engines, make available to third-party information providers as defined in paragraph (f)(2)(ii) of this section with whom they engage in licensing or business arrangements;

(i) The required emissions-related information as specified in paragraph (f)(5) of this section either:

(A) Directly in electronic format such as diskette or CD–ROM using non-proprietary software, in English; or

(B) Indirectly via a Web site other than that required by paragraph (f)(3) of this section;

(ii) For any manufacturer who utilizes an automated process in their manufacturer-specific scan tool for diagnostic fault trees, the data schema, detail specifications, including category types/codes and vehicle codes, and data format/content structure of the diagnostic trouble trees.

(iii) Manufacturers can satisfy the requirement of paragraph (f)(9)(ii) of this section by making available diagnostic trouble trees on their manufacturer Web sites in full-text.

(iv) Manufacturers are not responsible for the accuracy of the information distributed by third parties. However, where manufacturers charge information intermediaries for information, whether through licensing agreements or other arrangements, manufacturers are responsible for inaccuracies contained in the information they provide to third-party information providers.

(10) *Required emissions-related training information.* By December 24, 2003, for emissions-related training information, manufacturers shall:

(i) Video tape or otherwise duplicate and make available for sale on manufacturer Web sites within 30 days after transmission any emissions-related training courses provided to manufacturer-franchised dealerships via the Internet or satellite transmission;

(ii) Provide on the manufacturer Web site an index of all emissions-related training information available for purchase by aftermarket service providers for 1994 and newer vehicles. For model years subsequent to 2003, the required information must be made available for purchase within 3 months of model introduction and then must be made available at the same time it is made available to manufacturer-franchised dealerships, whichever is earlier. The index shall describe the title of the course or instructional session, the cost of the video tape or duplicate, and information on how to order the item(s) from the manufacturer Web site. All of the items available must be shipped within 24 hours of the order being placed and are to be made available at a fair and reasonable price as described in section (f)(7) of this section. Manufacturers unable to meet the 24 hour shipping requirement under circumstances where orders exceed supply and additional time is needed by the distributor to reproduce the item being ordered, may exceed the 24 hour shipping requirement, but in no instance can take longer than 14 days to ship the item.

(iii) Provide access to third-party training providers as defined in paragraph (f)(2)(ii) of this section all emission-related training courses transmitted via satellite or Internet offered to their manufacturer-franchised dealerships. Manufacturers may not charge unreasonable up-front fees to third-party training providers for this access, but may require a royalty, percentage, or other arranged fee based on per-use enrollment/subscription basis. Manufacturers may take reasonable steps to protect any copyrighted information and are not required to provide this information to parties that do not agree to such steps.

(11) *Timeliness and maintenance of information dissemination.* (i) General requirements. Subsequent to the initial launch of the manufacturer's Web site, manufacturers must make the information required under paragraph (f)(5) of this section available on their Web site within six months of model introduction, or at the same time it is made available to manufacturer-

franchised dealerships, whichever is earlier. After this six-month period, the information must be available and updated on the manufacturer Web site at the same time that the updated information is made available to manufacturer-franchised dealerships, except as otherwise specified in this section.

(ii) *Archived information.* Manufacturers must maintain the required information on their Web sites in full-text as defined in paragraph (f)(5) of this section for a minimum of 15 years after model introduction. Subsequent to this fifteen year period, manufacturers may archive the information in the manufacturer's format of choice and provide an index of the archived information on the manufacturer Web site and how it can be obtained by interested parties. Manufacturers shall index their available information with a title that adequately describes the contents of the document to which it refers. Manufacturers may allow for the ordering of information directly from their Web site, or from a Web site hyperlinked to the manufacturer Web site. In the alternative, manufacturers shall list a phone number and address where aftermarket service providers can call or write to obtain the desired information. Manufacturers must also provide the price of each item listed, as well as the price of items ordered on a subscription basis. To the extent that any additional information is added or changed for these model years, manufacturers shall update the index as appropriate. Manufacturers will be responsible for ensuring that all information, including information that is distributed through information distributors, is provided within one regular business day of receiving the order. Items that are less than 20 pages (*e.g.* technical service bulletins) shall be faxed, if requested, to the requestor and distributors are required to deliver the information overnight if requested and paid for by the ordering party. Archived information must be made available on demand and at a fair and reasonable price.

(12) *Reprogramming information.* (i) Manufacturers shall make available to the persons specified in paragraph (f)(2)(i) of this section all emissions-related recalibration or reprogramming events (including driveability reprogramming events that may affect emissions) in the format of its choice at the same time they are made available to manufacturer-franchised dealerships. This requirement takes effect on September 25, 2003, and within 3 months of model introduction for all new model years.

(ii) Manufacturers shall provide persons specified in paragraph (f)(2)(i) of this section with an efficient and cost-effective method for identifying whether the calibrations on vehicles are the latest to be issued. This requirement takes effect on September 25, 2003, and within 3 months of model introduction for all new model years.

(iii) For all 2004 and later OBD vehicles equipped with reprogramming capability, manufacturers shall comply with SAE J2534 (Incorporated by reference, see § 86.1). Any manufacturer who cannot comply with SAE J2534 in model year 2004 may request one year additional lead time from the Administrator.

(iv) For model years 2004 and later, manufacturers shall make available to aftermarket service providers the necessary manufacturer-specific software applications and calibrations needed to initiate pass-through reprogramming. This software shall be able to run on a standard personal computer that utilizes standard operating systems as specified in SAE J2534 (Incorporated by reference, see § 86.1).

(v) For model years prior to 2004, manufacturers may use SAE J2534 as described above, provided they make available to the aftermarket any additional required hardware (*i.e.,* cables). Manufacturers may not require the purchase or use of a manufacturer-specific scan tool to receive or use this additional hardware. Manufacturers must also make available the necessary manufacturer-specific software applications and calibrations needed to initiate pass-through reprogramming. Manufacturers must also make available to equipment and tool companies any information needed to develop aftermarket equivalents of the manufacturer-specific hardware.

(vi) Manufacturers may take any reasonable business precautions necessary to protect proprietary business information and are not required to provide this information to any party that does not agree to these reasonable business precautions. The requirement to make hardware available and to release the information to equipment and tool companies takes effect on September 25, 2003, and within 3 months of model introduction for all new model years.

(vii) Manufacturers who cannot comply with paragraphs (f)(12)(v) and (f)(12)(vi) of this section shall make available to equipment and tool companies by September 25, 2003 the following information necessary for reprogramming the ECU:

(A) The physical hardware requirements for reprogramming events or tools (*e.g.* system voltage requirements, cable terminals/pins, connections such as RS232 or USB, wires, etc.).

(B) ECU data communication (*e.g.* serial data protocols, transmission speed or baud rate, bit timing requirements, etc.).

(C) Information on the application physical interface (API) or layers (descriptions for procedures such as connection, initialization, performing and verifying programming/download, and termination).

(D) Vehicle application information or any other related service information such as special pins and voltages for reprogramming events or additional vehicle connectors that require enablement and specifications for the enablement.

(E) Information that describes what interfaces or combinations of interfaces are used to deliver calibrations from database media (*e.g.* PC using CDROM to the reprogramming device *e.g.* scan tool or black box).

(viii) A manufacturer can propose an alternative to the requirements of paragraph (f)(12)(vii) of this section for how aftermarket service providers can reprogram an ECU. The Administrator will approve this alternative if the manufacturer demonstrates all of the following:

(A) That it cannot comply with paragraph (f)(12)(v) of this section for the vehicles subject to the alternative plan;

(B) That a very small percentage of its vehicles in model years prior to 2004 cannot be reprogrammed with the provisions described in paragraph (f)(12)(v) of this section, or that releasing the information to tool companies would likely not result in this information being incorporated into aftermarket tools; and

(C) That aftermarket service providers will be able to reprogram promptly at a reasonable cost.

(ix) In meeting the requirements of paragraphs (f)(12)(v) through (f)(12)(vii) of this section, manufacturers may take any reasonable business precautions necessary to protect proprietary business information and are not required to provide this information to any party that does not agree to these reasonable business precautions.

(13) *Generic and enhanced information for scan tools.* By September 25, 2003, manufacturers shall make available to equipment and tool companies all generic and

enhanced service information including bi-directional control and data stream information as defined in paragraph (f)(2)(ii) of this section. This requirement applies for 2001 and later model year vehicles.

(i) The information required by this paragraph (f)(13) of this section shall be provided electronically using common document formats to equipment and tool companies with whom they have appropriate licensing, contractual, and/or confidentiality arrangements. To the extent that a central repository for this information (*e.g.* the TEK–NET library developed by the Equipment and Tool Institute) is used to warehouse this information, the Administrator shall have free unrestricted access. In addition, information required by paragraph (f)(13) of this section shall be made available to equipment and tool companies who are not otherwise members of any central repository and shall have access if the non-members have arranged for the appropriate licensing, contractual and/or confidentiality arrangements with the manufacturer and/or a central repository.

(ii) In addition to the generic and enhanced information defined in paragraph (f)(2)(ii) of this section, manufacturers shall also make available the following information necessary for developing generic diagnostic scan tools:

(A) The physical hardware requirements for data communication (*e.g.* system voltage requirements, cable terminals/pins, connections such as RS232 or USB, wires, etc.)

(B) ECU data communication (*e.g.* serial data protocols, transmission speed or baud rate, bit timing requirements, *etc.*),

(C) Information on the application physical interface (API) or layers. (*i.e.,* processing algorithms or software design descriptions for procedures such as connection, initialization, and termination),

(D) Vehicle application information or any other related service information such as special pins and voltages or additional vehicle connectors that require enablement and specifications for the enablement.

(iii) Any manufacturer who utilizes an automated process in its manufacturer-specific scan tool for diagnostic fault trees shall make available to equipment and tool companies the data schema, detail specifications, including category types/codes and vehicle codes, and data format/content structure of the diagnostic trouble trees.

(iv) Manufacturers can satisfy the requirement of this paragraph (f)(13)(iii) by making available diagnostic trouble trees on their manufacturer Web sites in full-text.

(14) *Availability of manufacturer-specific scan tools.* Manufacturers shall make available for sale to the persons specified in paragraph (f)(2)(i) of this section their own manufacturer-specific diagnostic tools at a fair and reasonable cost. These tools shall also be made available in a timely fashion either through the manufacturer Web site or through a manufacturer-designated intermediary. Manufacturers who develop different versions of one or more of their diagnostic tools that are used in whole or in part for emission-related diagnosis and repair shall insure that all emission-related diagnosis and repair information is available for sale to the aftermarket at a fair and reasonable cost. Manufacturers shall provide technical support to aftermarket service providers for the tools described in this section, either themselves or through a third party of its choice. Factors for determining fair and reasonable cost include, but are not limited to:

(i) The net cost to the manufacturer's franchised dealerships for similar tools obtained from manufacturers, less any discounts, rebates, or other incentive programs;

(ii) The cost to the manufacturer for preparing and distributing the tools, excluding any research and development costs;

(iii) The price charged by other manufacturers of similar sizes for similar tools;

(iv) The capabilities and functionality of the manufacturer tool;

(v) The means by which the tools are distributed;

(vi) Inflation;

(vii) The ability of aftermarket technicians and shops to afford the tools.

(15) *Changing content of manufacturer-specific scan tools.* Manufacturers who opt to remove non-emissions related content from their manufacturer-specific scan tools and sell them to the persons specified in paragraph (f)(2)(i) of this section shall adjust the cost of the tool accordingly lower to reflect the decreased value of the scan tool. All emissions-related content that remains in the manufacturer-specific tool shall be identical to the information that is contained in the complete version of the manufacturer specific tool. Any manufacturer who wishes to implement this option must request approval from the Administrator prior to the introduction of the tool into commerce.

(16) *Special tools.* (i) Manufacturers who have developed special tools to extinguish the malfunction indicator light (MIL) for Model Years 2001 through 2003 shall make available the necessary information to equipment and tool companies to design a comparable generic tool. This information shall be made available to equipment and tool companies no later than September 23, 2003.

(ii) Manufacturers are prohibited from requiring special tools to extinguish the malfunction indicator light (MIL) beginning with Model Year 2004.

(17) *Reference materials.* Manufacturers shall conform with the following Society of Automotive Engineers (SAE) standards.

(i) For Web-based delivery of service information, manufacturers shall comply with SAE Recommended Practice J1930 (Revised, May 1998), ''Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms'' (Incorporated by reference, *see* § 86.1). This recommended practice standardizes various terms, abbreviations, and acronyms associated with on-board diagnostics. Manufacturers shall comply with SAE J1930 (Incorporated by reference, *see* § 86.1) beginning with Model Year 2004.

(ii) For identification and scaling information necessary to interpret and understand data available to a generic scan tool through ''mode 6'', manufacturers shall comply with SAE Recommended Practice J1979 (Revised, September, 1997), ''EE Diagnostic Test Modes'' (Incorporated by reference, *see* § 86.1). This recommended practice describes the implementation of the diagnostic test modes for emissions-related test data. Manufacturers shall comply with SAE J1979 beginning with Model Year 2004.

(iii) For allowing ECU and equipment and tool manufacturers to satisfy the needs of multiple end users with minimum modification to a basic ECU design, manufacturers shall comply with SAE Recommended Practice J2284–3 (May, 2001), ''High Speed CAN (HSC) for Vehicle Applications at 500 KBPS'' (Incorporated by reference, see § 86.1). SAE J2284–3 establishes standard ECU physical layer, data link layer, and media design criteria. Manufacturers may comply with SAE J2284–3 beginning with model year 2003 and shall comply with SAE J2284–3 beginning with model year 2008.

(iv) For pass-through reprogramming capabilities, manufacturers shall comply with SAE Recommended Practice J2534 (February, 2002), ''Recommended Practice for Pass-Thru Vehicle Programming'' (Incorporated by reference, *see* § 86.1). This

recommended practice provides technical specifications and information that manufacturers must supply to equipment and tool companies to develop aftermarket pass-through reprogramming tools. Manufacturers shall comply with SAE J2534 beginning with model year 2004.

(18) *Reporting requirements.* Manufacturers shall provide to the Administrator reports on an annual basis within 30 days of the end of the calendar year and upon request of the Administrator, that describe the performance of their individual Web sites. These annual reports shall be submitted to the Administrator electronically utilizing non-proprietary software in the format as agreed to by the Administrator and the manufacturers. Manufacturers may request Administrator approval to report on parameters other than those described below if the manufacturer can demonstrate that those alternate parameters will provide sufficient and similar information for the Administrator to effectively evaluate the manufacturer Web site. These annual reports shall include, at a minimum, monthly measurements of the following parameters:

(i) Total successful requests (measured in number of files including graphic interchange formats (GIFs) and joint photographic expert group (JPEG) images, *i.e.* electronic images such as wiring or other diagrams or pictures). This is defined as the total successful request counts of all the files which have been requested, including pages, graphics, etc.

(ii) Total failed requests (measured in number of files). This is defined as the total failed request counts of all the files which were requested but failed because they could not be found or were read-protected. This includes pages, graphics, etc.

(iii) Average data transferred per day (measured by bytes). This is defined as average amount of data transferred per day from one place to another.

(iv) Daily Summary (measured in number of files/pages by day of week). This is defined as the total number of requests each day of the week, over the time period given at the beginning of the report.

(v) Daily report (measured in number of files/pages by the day of the month). This is defined as how many requests there were in each day of a specific month.

(vi) Browser Summary (measured in number of files/pages by browser type, *i.e.*, Netscape, Internet Explorer). This is defined as the versions of a browser by vendor.

(vii) Any other information deemed necessary by the Administrator to determine the adequacy of an manufacturer Web site.

(19) *Prohibited Acts, Liability and Remedies.* (i) It is a prohibited act for any person to fail to promptly provide or cause a failure to promptly provide information as required by this paragraph (f), or to otherwise fail to comply or cause a failure to comply with any provision of this paragraph (f).

(ii) Any person who fails or causes the failure to comply with any provision of this paragraph (f) is liable for a violation of that provision. A corporation is presumed liable for any violations of this subpart that are committed by any of its subsidiaries, affiliates or parents that are substantially owned by it or substantially under its control.

(iii) Any person who violates a provision of this paragraph (f) shall be subject to a civil penalty of not more than $ 31,500 per day for each violation. This maximum penalty is shown for calendar year 2002. Maximum penalty limits for later years may be set higher based on the Consumer Price Index, as specified in 40 CFR part 19. In addition, such person shall be liable for all other remedies set forth in Title II of the Clean Air Act, remedies pertaining to provisions of Title II of the Clean Air Act, or other applicable provisions of law.

■ 10. Section 86.1808–07 is amended by revising paragraphs (a) through (f) to read as follows:

§ 86.1808–07 Maintenance instructions.

* * * * *

(a) through (e) [Reserved]. For guidance see § 86.1808–1.

(f) [Reserved]. For guidance *see* § 86.1808–1. For incorporation by reference *see* §§ 86.1 and 86.1808–1.

* * * * *

[FR Doc. 03–14461 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Friday,
June 27, 2003

Part III

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2003–2004 Subsistence Taking of Fish and Wildlife Regulations; Final Rules

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AI62

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2003–2004 Subsistence Taking of Fish and Wildlife Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses in Alaska during the 2003–2004 regulatory year. The rulemaking is necessary because the regulations governing the subsistence harvest of wildlife in Alaska are subject to an annual public review cycle. This rulemaking replaces the wildlife regulations that expire on June 30, 2003. This rule also amends the regulations that establish which Alaska residents are eligible to take specific species for subsistence uses.

DATES: Sections __.24(a)(1) and __.25 are effective July 1, 2003. Section __.26 is effective July 1, 2003, through June 30, 2004.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 786–3888.

SUPPLEMENTARY INFORMATION:

Background

In Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), Congress found that ''the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses * * *'' and that ''continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened * * *.'' As a result, Title VIII requires, among other things, that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA.

The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990. As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170).

As a result of this joint process between Interior and Agriculture, these regulations can be found in both Code of Federal Regulations (CFR) title 36, ''Parks, Forests, and Public Property,'' and title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; subpart B, Program Structure, subpart C, Board Determinations, and subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subparts A, B, and C of these regulations, as revised May 7, 2002 (67 FR 30559), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participated in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (2002) and 50 CFR 100.11 (2002), and for the purposes identified therein, we divide Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents, who have personal knowledge of local conditions and resource requirements, to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

Current Rule

Because the Subpart D regulations, which establish seasons and harvest limits and methods and means, are subject to an annual cycle, they require development of an entire new rule each year. Customary and traditional use determinations (Subpart C) are also subject to an annual review process providing for modification each year. Section __.24 (Customary and traditional use determinations) was originally published in the **Federal Register** (57 FR 22940) on May 29, 1992. The regulations at 36 CFR 242.4 and 50 CFR 100.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. * * *'' Since that time, the Board has made a number of Customary and Traditional Use Determinations at the request of impacted subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

MODIFICATIONS TO __.24.

Federal Register citation	Date of publication	Rule made changes to the following provisions of __.24:
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 35776	July 1, 1999	Wildlife and Fish/Shellfish.
65 FR 40730	June 30, 2000	Wildlife.
66 FR 10142	February 13, 2001	Fish/Shellfish.
66 FR 33744	June 25, 2001	Wildlife.
67 FR 5890	February 7, 2002	Fish/Shellfish.
67 FR 43710	June 28, 2002	Wildlife.
68 FR 7276	February 12, 2003	Fish/Shellfish.

During its May 20–22, 2003, meeting, the Board did not make any additional customary and traditional use determinations.

The Departments of the Interior and Agriculture published a proposed rule on August 5, 2002 (67 FR 50619), to amend Subparts C and D of 36 CFR 242 and 50 CFR 100. The proposed rule opened a 75-day comment period, which closed on October 18, 2002. The Departments advertised the proposed rule by mail, radio, and newspaper. During that period, the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. The Board received a total of 55 proposals for changes to Subparts C and D. Subsequent to the 60-day review period, the Board prepared a booklet describing the proposals and distributed it to the public. The public had an additional 30 days in which to comment on the proposals for changes to the regulations. The 10 Regional Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. Six of the proposals were withdrawn from consideration by their originators. The Regional Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, presented their Council's recommendations at the Board meeting of May 20–22, 2003. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. The public has had extensive opportunity to review and comment on all changes. Additional details on the recent Board modifications are contained below in Analysis of Proposals Adopted by the Board.

Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 apply to regulations found in this subpart.

Analysis of Proposals Rejected by the Board

The Board rejected 6 proposals. All these rejections were based on recommendations from the respective Regional Council and additional factors.

Two proposals requested prohibiting or revising the designated hunter provisions for moose in Unit 6(C). The Board rejected these proposals as being detrimental to subsistence users in one case and rendered moot in the second case by the adoption of other proposals.

One proposal requested imposing special hunter qualifications on moose hunters in Unit 6(C). The Board rejected this proposal because the changes would have constituted an unnecessary restriction on subsistence users.

One proposal requested the establishment of a customary and traditional use determination and harvest system for goat in Unit 8. The Board rejected this proposal based on the recommendations of the Regional Council that the harvest system worked out between the local users and the State would meet the needs of subsistence users best.

One proposal requested deletion of the requirement to remove the claws and the skin of the skull before transporting a brown bear hide from the Western Alaska Brown Bear Management Area. The Board rejected this proposal because of conservation concerns and because the Regional Councils recommended that the WABBMA Working Group should be involved in the development and review of proposals impacting this area.

One proposal requested closure of Federal lands to moose hunting in Units 21(D) and 24 by nonsubsistence users. This proposal was rejected because the area proposed for closure has an adequate population of moose to allow the harvest by both subsistence and nonsubsistence users.

The Board deferred action on eight proposals in order to allow communities or Regional Councils additional time to review the issues and provide additional information. Six of the originally submitted proposals were withdrawn from consideration by their originators.

Analysis of Proposals Adopted by the Board

The Board adopted 35 proposals. Some of these proposals were adopted as submitted and others were adopted with modifications suggested by the respective Regional Council, developed during the analysis process, or during the Board's public deliberations.

All of the adopted proposals were recommended for adoption by at least one of the Regional Councils and were based on meeting customary and traditional uses, harvest practices, or protecting wildlife populations. Detailed information relating to justification for the action on each proposal may be found in the Board meeting transcripts, available for review at the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska, or on the Office of Subsistence Management Web site (*http://alaska.fws.gov/asm/home.html*). Additional minor technical clarifications have been made, which result in a more readable document.

Multiple Regions

The Board adopted two proposals resulting in the following changes in the regulations found in §§ __.25 and __.26, which affect residents of all Regions.

- In § __.25, added a definition for ''field''.
- In § .25, established a Statewide designated hunter program for subsistence harvest of moose, deer, and caribou, subject to unit-specific provisions.
- In § __.26, established a Statewide provision for the taking of wildlife for use in traditional funerary or mortuary ceremonies.

Southeast Region

The Board adopted seven proposals affecting residents of the Southeast Region resulting in the following change to the regulations found in § __.26.

- Revised the brown bear seasons in a portion of Unit 4.
- Expanded the deer season in Unit 2 and closed Prince of Wales Island for part of the season to non-Federally qualified users.
- Expanded a hunt area for deer on Kupreanof Island in Unit 3.
- Reduced the harvest limit for goat and closed portions of Unit 1(A) and (B).
- Revised the season and instituted a permit requirement for moose in Unit 1(A).
- Revised the season and provided a closure mechanism for wolf hunting in Unit 2.

Southcentral Region

The Board adopted three proposals affecting residents in the Southcentral Region resulting in the following changes to the regulations found in § __.26.

- Expanded a season for brown bear in Unit 11.
- Revised the harvest regulations for caribou in Unit 13.
- Established a specific designated hunter program for moose in Unit 6.

The Board also expanded the harvest dates for the take of a moose for the Batzulnetas Culture Camp based on concerns related to the condition of the trail providing access to the camp.

Additionally, the U.S. Fish and Wildlife Service, Office of Subsistence Management, used its delegated authority to adjust lynx seasons and harvest limits consistent with the ADF&G Lynx Harvest Management Strategy. The Office of Subsistence Management, in May 2002, exercised this authority and adjusted the lynx harvest limits in Units 6, 14, and 16.

Bristol Bay Region

The Board adopted four proposals affecting residents in the Bristol Bay Region resulting in the following changes to the regulations found in § __.26.

- Revised the harvest limit and closure conditions for caribou in a portion of Unit 17.
- Deleted the winter antlerless hunt and shifted the winter season for moose in a portion of Unit 9(C).
- Increased the harvest limit for wolves in Units 9 and 17.
- Increased the trapping season and harvest limit for beaver in Units 9 and 17.

Yukon/Kuskokwim Region

The Board adopted one proposal affecting residents of the Yukon/Kuskokwim Region resulting in the following change to the regulations found in § __.26.

- Included a requirement for meat of the front and hind quarters of moose remain on the bone until removed from the field in a portion of Unit 18.

Western Interior Region

The Board adopted seven proposals affecting residents of the Western Interior Region resulting in the following change to the regulations found in § __.26.

- Included a requirement for meat of the front and hind quarters and ribs of moose remain on the bone until removed from the field in Unit 21 and for meat of the front and hind quarters and ribs of moose and caribou remain on the bone until removed from the field in Unit 24.
- Deleted the winter antlerless hunt and reduced the winter season length for moose in a portion of Unit 19(A).
- Reduced the fall season length for moose in Unit 19(C).
- Expanded the coyote hunting season in Units 19, 21, and 24.
- Increased the harvest limit for wolf in Unit 24.
- Increased the harvest limit for wolverine in Unit 24.

Seward Peninsula Region

The Board adopted one proposal affecting residents of the Seward Peninsula Region resulting in the following change to the regulations found in § __.26.

- Opened a portion of two subunits for caribou in Unit 22.

Eastern Interior Region

The Board adopted nine proposals affecting residents of the Eastern Interior Region resulting in the following changes to the regulations found in § __.26.

- Established a community harvest limit for black bear and provided for use of fall bait stations in Unit 25(D).
- Revised the season for brown bear in Units 25(A) and (B).
- Deleted the fall cow season for caribou in a portion of Unit 25(C).
- Revised the harvest limit and the season dates for moose in a portion of Unit 12.
- Revised the description of a special hunt area for moose in Unit 20.
- Expanded the season for moose in a portion of Unit 20(F).
- Expanded the season and method of take for beaver in portions of Units 12 and 20(E).
- Increased the harvest limit and expanded the season for coyote in Units 12, 20, and 25.
- Inserted trap and snare restrictions for coyote in Units 12 and 20(E).

North Slope Region

The Board adopted one proposal affecting residents of the North Slope Region resulting in the following change to the regulations found in § __.26.

- Revised the harvest regulations and provided for designated hunting for muskox in Unit 26(C).

These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. All Board members have reviewed this rule and agree with its substance. Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR part 242 and 50 CFR part 100.

Administrative Procedure Act Compliance

The Board finds that additional public notice under the Administrative Procedure Act (APA) for this final rule is unnecessary, and contrary to the public interest. The Board has provided extensive opportunity for public input and involvement in excess of standard APA requirements, including participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change. Over the 12 years the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the regulations. A lapse in regulatory control could seriously affect the continued viability of wildlife populations, adversely impact future subsistence opportunities for rural

Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553 (d) to make this rule effective less than 30 days after publication.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analysis and examined the environmental consequences of four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comments received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: FEDERAL REGISTER DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule (FR)	''Subsistence Management Regulations for Public Lands in Alaska; Final Rule'' was published in the **Federal Register**.
64 FR 1276	January 8, 1999	FR (amended)	Amended to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or an Alaska Native Corporation. Specified and clarified Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Final Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Direct Final Rule	In response to comments on an interim rule, amended the operating regulations. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Received no adverse comments on the direct final rule (67 FR 30559). Adopted direct final rule.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available by contacting the office listed under **FOR FURTHER INFORMATION CONTACT.** The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction did not constitute a major Federal action, significantly affecting the human environment and has, therefore, signed a Finding of No Significant Impact.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below were approved by OMB under 44 U.S.C. 3501 and were assigned clearance number 1018–0075, which expires July 31, 2003. On January 16, 2003, we published in the **Federal Register** (68 FR 2347) a notice of our intent to request OMB approval of a 3-year renewal of this information collection. We will not conduct or

sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

Other Requirements

This rule was not subject to OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant economic effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, and gasoline dealers. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that 2 million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, would equate to about $6 million in food value state-wide.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over wildlife resources on Federal lands.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this action is not a significant action and no Statement of Energy Effects is required.

Drafting Information—William Knauer drafted these regulations under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Alaska Regional Office, Bureau of Indian Affairs; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; and Ken Thompson, USDA-Forest Service provided additional guidance.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

■ For the reasons set out in the preamble, the Federal Subsistence Board amends Title 36, part 242, and Title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR Part 242 and 50 CFR Part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § __.24(a)(1) is reprinted without change to read as follows:

§ ____.24 Customary and traditional use determinations.

(a) * * *

(1) *Wildlife determinations.* The rural Alaska residents of the listed communities and areas have a customary and traditional use of the specified species on Federal public lands within the listed areas:

Area	Species	Determination
Unit 1(C)	Black Bear	Residents of Unit 1(C), 1(D), 3, and residents of Hoonah, Pelican, Point Baker, Sitka, and Tenakee Springs.
1(A)	Brown Bear	Residents of Unit 1(A) except no subsistence for residents of Hyder.
1(B)	Brown Bear	Residents of Unit 1(A), Petersburg, and Wrangell, except no subsistence for residents of Hyder.
1(C)	Brown Bear	Residents of Unit 1(C), Haines, Hoonah, Kake, Klukwan, Skagway, and Wrangell, except no subsistence for residents of Gustavus.
1(D)	Brown Bear	Residents of 1(D).
1(A)	Deer	Residents of 1(A) and 2.
1(B)	Deer	Residents of Unit 1(A), residents of 1(B), 2 and 3.

Area	Species	Determination
1(C)	Deer	Residents of 1(C) and (D), and residents of Hoonah, Kake, and Petersburg.
1(D)	Deer	No Federal subsistence priority.
1(B)	Goat	Residents of Units 1(B) and 3.
1(C)	Goat	Residents of Haines, Kake, Klukwan, Petersburg, and Hoonah.
1(B)	Moose	Residents of Units 1, 2, 3, and 4.
1(C) Berner's Bay	Moose	No Federal subsistence priority.
1(D)	Moose	Residents of Unit 1(D).
Unit 2	Brown Bear	No Federal subsistence priority.
2	Deer	Residents of Unit 1(A) and residents of Units 2 and 3.
Unit 3	Deer	Residents of Unit 1(B) and 3, and residents of Port Alexander, Port Protection, Pt. Baker, and Meyer's Chuck.
3, Wrangell and Mitkof Islands	Moose	Residents of Units 1(B), 2, and 3.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
4	Deer	Residents of Unit 4 and residents of Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, Wrangell, and Yakutat.
4	Goat	Residents of Sitka, Hoonah, Tenakee, Pelican, Funter Bay, Angoon, Port Alexander, and Elfin Cove.
Unit 5	Black Bear	Residents of Unit 5(A).
5	Brown Bear	Residents of Yakutat.
5	Deer	Residents of Yakutat.
5	Goat	Residents of Unit 5(A).
5	Moose	Residents of Unit 5(A).
5	Wolf	Residents of Unit 5(A).
Unit 6(A)	Black Bear	Residents of Yakutat and residents of 6(C) and 6(D), except no subsistence for Whittier.
6, remainder	Black Bear	Residents of Unit 6(C) and 6(D), except no subsistence for Whittier.
6	Brown Bear	No Federal subsistence priority.
6(A)	Goat	Residents of Unit 5(A), 6(C), Chenega Bay and Tatitlek.
6(C) and (D)	Goat	Residents of Unit 6(C) and (D).
6(A)	Moose	Unit 6(A)—Residents of Units 5(A), 6(A), 6(B) and 6(C).
6(B) and (C)	Moose	Residents of Units 6(A), 6(B) and 6(C).
6(D)	Moose	No Federal subsistence priority.
6(A)	Wolf	Residents of Units 5(A), 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
6, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 7	Brown Bear	No Federal subsistence priority.
7	Caribou	No Federal subsistence priority.
7, Brown Mountain hunt area.	Goat	Residents of Port Graham and English Bay.
7, that portion draining into Kings Bay	Moose	Residents of Chenega Bay and Tatitlek.
7, remainder	Moose	No Federal subsistence priority.
7	Sheep	No Federal subsistence priority.
7	Ruffed Grouse	No Federal subsistence priority.
Unit 8	Brown Bear	Residents of Old Harbor, Akhiok, Larsen Bay, Karluk, Ouzinkie, and Port Lions.
8	Deer	Residents of Unit 8.
8	Elk	Residents of Unit 8.
8	Goat	No Federal subsistence priority.
Unit 9(D)	Bison	No Federal subsistence priority.
9(A) and (B)	Black Bear	Residents of Units 9(A) and (B), and 17(A), (B), and (C).
9(A)	Brown Bear	Residents of Pedro Bay.
9(B)	Brown Bear	Residents of Unit 9(B).
9(C)	Brown Bear	Residents of Unit 9(C).
9(D)	Brown Bear	Residents of Units 9(D) and 10 (Unimak Island).
9(E)	Brown Bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, and Port Heiden/Meshik.
9(A) and (B)	Caribou	Residents of Units 9(B), 9(C) and 17.
9 (C)	Caribou	Residents of Unit 9(B), 9(C), 17 and residents of Egegik.
9(D)	Caribou	Residents of Unit 9(D), and residents of Akutan, False Pass.
9(E)	Caribou	Residents of Units 9(B), (C), (E), 17, and residents of Nelson Lagoon and Sand and Point.
9(A), (B), (C) and (E).	Moose	Residents of Unit 9(A), (B), (C) and (E)
9(D)	Moose	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
9(B)	Sheep	Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and residents of Lake Clark National Park and Preserve within Unit 9(B).
9, remainder	Sheep	No determination.

Area	Species	Determination
9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
9(A), (B), (C), & (E)	Beaver	Residents of Units 9(A), (B), (C), (E), and 17.
Unit 10 Unimak Island	Brown Bear	Residents of Units 9(D) and 10 (Unimak Island).
Unit 10 Unimak Island	Caribou	Residents of Akutan, False Pass, King Cove, and Sand Point.
10, remainder	Caribou	No determination.
10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 11	Bison	No Federal subsistence priority.
11, north of the Sanford River	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
11, remainder	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Unit 11.
11, north of the Sanford River	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
11, remainder	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Unit 11.
11, north of the Sanford River	Caribou	Residents of Units 11, 12, and 13(A)–(D) and the residents of Chickaloon, Healy Lake, and Dot Lake.
11, remainder	Caribou	Residents of Units 11 and 13(A)–(D) and the residents of Chickaloon.
11	Goat	Residents of Unit 11 and the residents of Chitina, Chistochina, Copper Center, Gakona, Glennallen, Gulkana, Mentasta Lake, Slana, Tazlina, Tonsina, and Dot Lake.
11, north of the Sanford River	Moose	Residents of Units 11, 12, and 13(A)–(D) and the residents of Chickaloon, Healy Lake, and Dot Lake.
11, remainder	Moose	Residents of Units 11, 13(A)–(D), and residents of Chickaloon.
11, north of the Sanford River	Sheep	Residents of Unit 12 and the communities and areas of Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, Kenny Lake, Mentasta Lake, Slana, McCarthy/South, Wrangell/South Park, Tazlina and Tonsina; residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
11, remainder	Sheep	Residents of the communities and areas of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina and Tonsina; residents along the Tok Cutoff—Milepost 79–110 (Mentasta Pass), residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
11	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
11	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 12	Brown Bear	Residents of Unit 12 and Dot Lake, Chistochina, Gakona, Mentasta Lake, and Slana.
12	Caribou	Residents of Unit 12 and residents of Dot Lake, Healy Lake, and Mentasta Lake.
12, south of a line from Noyes Mountain, southeast of the confluence of Tatschunda Creek to Nabesna River.	Moose	Residents of Unit 11 north of 62nd parallel, residents of Unit 12, 13(A)–(D) and the residents of Chickaloon, Dot Lake, and Healy Lake.
12, east of the Nabesna River and Nabesna Glacier, south of the Winter Trail from Pickerel Lake to the Canadian Border.	Moose	Residents of Unit 12 and Healy Lake.
12, remainder	Moose	Residents of Unit 12 and residents of Dot Lake, Healy Lake, and Mentasta Lake.
12	Sheep	Residents of Unit 12 and residents of Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 13	Brown Bear	Residents of Unit 13 and Slana.

Area	Species	Determination
13(B)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, residents of Unit 20(D) except Fort Greely, and the residents of Chickaloon.
13(C)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon, Dot Lake and Healy Lake.
13(A) & (D)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon.
13(E)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon, McKinley Village, and the area along the Parks Highway between milepost 216 and 239 (except no subsistence for residents of Denali National Park headquarters).
13(D)	Goat	No Federal subsistence priority.
13(A) and (D)	Moose	Residents of Unit 13 and the residents of Chickaloon and Slana.
13(B)	Moose	Residents of Units 13, 20(D) except Fort Greely, and the residents of Chickaloon and Slana.
13(C)	Moose	Residents of Units 12, 13 and the residents of Chickaloon, Healy Lake, Dot Lake and Slana.
13(E)	Moose	Residents of Unit 13 and the residents of Chickaloon, McKinley Village, Slana, and the area along the Parks Highway between milepost 216 and 239 (except no subsistence for residents of Denali National Park headquarters).
13(D)	Sheep	No Federal subsistence priority.
13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
13	Grouse (Spruce, Blue, Ruffed & Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 & 23.
13	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 & 23.
Unit 14(B) and (C)	Brown Bear	No Federal subsistence priority.
14	Goat	No Federal subsistence priority.
14	Moose	No Federal subsistence priority.
14(A) and (C)	Sheep	No Federal subsistence priority.
Unit 15(C)	Black Bear	Residents of Port Graham and Nanwalek only.
15, remainder	Black Bear	No Federal subsistence priority.
15	Brown Bear	No Federal subsistence priority.
15(C), Port Graham and English Bay hunt areas.	Goat	Residents of Port Graham and Nanwalek.
15(C), Seldovia hunt area	Goat	Residents of Seldovia area.
15	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15	Sheep	No Federal subsistence priority.
15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Unit 15.
15	Grouse (Spruce)	Residents of Unit 15.
15	Grouse (Ruffed)	No Federal subsistence priority.
Unit 16(B)	Black Bear	Residents of Unit 16(B).
16	Brown Bear	No Federal subsistence priority.
16(A)	Moose	No Federal subsistence priority.
16(B)	Moose	Residents of Unit 16(B).
16	Sheep	No Federal subsistence priority.
16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
16	Grouse (Spruce and Ruffed)	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
16	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 17(A) and that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake.	Black Bear	Residents of Units 9(A) and (B), 17, and residents of Akiak and Akiachak.
17, remainder	Black Bear	Residents of Units 9(A) and (B), and 17.
17(A)	Brown Bear	Residents of Unit 17, and residents of Akiak, Akiachak, Goodnews Bay and Platinum.
17(A) and (B), those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Kwethluk.
17(B), that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown Bear	Residents of Akiak and Akiachak.

Area	Species	Determination
17(B) and (C)	Brown Bear	Residents of Unit 17.
17	Caribou	Residents of Units 9(B), 17 and residents of Lime Village and Stony River.
Unit 17(A), that portion west of the Izavieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
Unit 17(A)—That portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Akiak, Akiachak, and Tuluksak.
17(A) and (B), those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Kwethluk.
Unit 17(B), that portion of Togiak National Wildlife Refuge within Unit 17(B).	Caribou	Residents of Bethel, Goodnews Bay, Platinum, Quinhagak, Eek, Akiak, Akiachak, and Tuluksak, Tuntutuliak, and Napakiak.
17(A) and (B), those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Moose	Residents of Kwethluk.
17(A)	Moose	Residents of Unit 17 and residents of Goodnews Bay and Platinum; however, no subsistence for residents of Akiachak, Akiak and Quinhagak.
Unit 17(A)—That portion north of Togiak Lake that includes Izavieknik River drainages.	Moose	Residents of Akiak, Akiachak.
Unit 17(B)—That portion within the Togiak National Wildlife Refuge.	Moose	Residents of Akiak, Akiachak.
17(B) and (C)	Moose	Residents of Unit 17, and residents of Nondalton, Levelock, Goodnews Bay, and Platinum.
17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
17	Beaver	Residents of Units 9(A), (B), (C), (E), and 17.
Unit 18	Black Bear	Residents of Unit 18, residents of Unit 19(A) living downstream of the Holokuk River, and residents of Holy Cross, Stebbins, St. Michael, Twin Hills, and Togiak.
18	Brown Bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mt. Village, Napaskiak, Platinum, Quinhagak, St. Mary's, and Tuluksak.
18	Caribou	Residents of Unit 18 and residents of Manokotak, Stebbins, St. Michael, Togiak, Twin Hills, and Upper Kalskag.
18, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of, but not including the Tuluksak River drainage.	Moose	Residents of Unit 18 and residents of Upper Kalskag, Aniak, and Chuathbaluk.
18, remainder	Moose	Residents of Unit 18 and residents of Upper Kalskag and Lower Kalskag.
18	Muskox	No Federal subsistence priority.
18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 19(C), (D)	Bison	No Federal subsistence priority.
19(A) and (B)	Brown Bear	Residents of Units 19 and 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River.
19(C)	Brown Bear	No Federal subsistence priority.
19(D)	Brown Bear	Residents of Units 19(A) and (D), and residents of Tulusak and Lower Kalskag.
19(A) and (B)	Caribou	Residents of Units 19(A) and 19(B), residents of Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River, and residents of St. Marys, Marshall, Pilot Station, Russian Mission.
19(C)	Caribou	Residents of Unit 19(C), and residents of Lime Village, McGrath, Nikolai, and Telida.
19(D)	Caribou	Residents of Unit 19(D), and residents of Lime Village, Sleetmute, and Stony River.
19(A) and (B)	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and Unit 19.
Unit 19(B), west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.

Area	Species	Determination
19(C)	Moose	Residents of Unit 19.
19(D)	Moose	Residents of Unit 19 and residents of Lake Minchumina.
19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 20(D)	Bison	No Federal subsistence priority.
20(F)	Black Bear	Residents of Unit 20(F)and residents of Stevens Village and Manley.
20(E)	Brown Bear	Residents of Unit 12 and Dot Lake.
20(F)	Brown Bear	Residents of Unit 20(F) and residents of Stevens Village and Manley.
20(A)	Caribou	Residents of Cantwell, Nenana, and those domiciled between milepost 216 and 239 of the Parks Highway. No subsistence priority for residents of households of the Denali National Park Headquarters.
20(B)	Caribou	Residents of Unit 20(B), Nenana, and Tanana.
20(C)	Caribou	Residents of Unit 20(C) living east of the Teklanika River, residents of Cantwell, Lake Minchumina, Manley Hot Springs, Minto, Nenana, Nikolai, Tanana, Talida, and those domiciled between milepost 216 and 239 of the Parks Highway 20(D) and (E) Caribou and between milepost 300 and 309. No subsistence priority for residents of households of the Denali National Park Headquarters.
20(D) and (E)	Caribou	Residents of 20(D), 20(E), and Unit 12 north of the Wrangell-St. Elias National Park and Preserve.
20(F)	Caribou	Residents of 20(F), 25(D), and Manley.
20(A)	Moose	Residents of Cantwell, Minto, and Nenana, McKinley Village, the area along the Parks Highway between mileposts 216 and 239,except no subsistence for residents of households of the Denali National Park Headquarters.
20(B)	Moose	Minto Flats Management Area—residents of Minto and Nenana.
20(B)	Moose	Remainder—residents of Unit 20(B), and residents of Nenana and Tanana.
20(C)	Moose	Residents of Unit 20(C) (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), and residents of Cantwell, Manley, Minto, Nenana, the Parks Highway from milepost 300–309, Nikolai, Tanana, Telida, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239. No subsistence for residents of households of the Denali National Park Headquarters.
20(D)	Moose	Residents of Unit 20(D) and residents of Tanacross.
20(F)	Moose	Residents of Unit 20(F), Manley, Minto, and Stevens Village.
20(F)	Wolf	Residents of Unit 20(F) and residents of Stevens Village and Manley.
20, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
20(D)	Grouse, (Spruce, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22, and 23.
20(D)	Ptarmigan (Rock and Willow)	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22, and 23.
Unit 21	Brown Bear	Residents of Units 21 and 23.
21(A)	Caribou	Residents of Units 21(A), 21(D), 21(E), Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21(B) & (C)	Caribou	Residents of Units 21(B), 21(C), 21(D), and Tanana.
21(D)	Caribou	Residents of Units 21(B), 21(C), 21(D), and Huslia.
21(E)	Caribou	Residents of Units 21(A), 21(E) and Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21(A)	Moose	Residents of Units 21(A), (E), Takotna, McGrath, Aniak, and Crooked Creek.
21(B) and (C)	Moose	Residents of Units 21(B) and (C), Tanana, Ruby, and Galena.
21(D)	Moose	Residents of Units 21(D), Huslia, and Ruby.
21(E)	Moose	Residents of Unit 21(E) and residents of Russian Mission.
21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 22(A)	Black Bear	Residents of Unit 22(A) and Koyuk.
22(B)	Black Bear	Residents of Unit 22(B).
22(C), (D), and (E)	Black Bear	No Federal subsistence priority.
22	Brown Bear	Residents of Unit 22.

Area	Species	Determination
22(A)	Caribou	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22 (except residents of St. Lawrence Island), 23, 24, and residents of Kotlik, Emmonak, Hooper Bay, Scammon Bay, Chevak, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Marys, Nunam Iqua, and Alakanuk.
22, remainder	Caribou	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22 (except residents of St. Lawrence Island), 23, 24.
22	Moose	Residents of Unit 22.
22(B)	Muskox	Residents of Unit 22(B).
22(C)	Muskox	Residents of Unit 22(C).
22(D)	Muskox	Residents of Unit 22(D) excluding St. Lawrence Island.
22(E)	Muskox	Residents of Unit 22(E) excluding Little Diomede Island.
22	Wolf	Residents of Units 23, 22, 21(D) north and west of the Yukon River, and residents of Kotlik.
22	Grouse (Spruce)	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22, and 23.
22	Ptarmigan (Rock and Willow)	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22, and 23.
Unit 23	Black Bear	Residents of Unit 23, Alatna, Allakaket, Bettles, Evansville, Galena, Hughes, Huslia, and Koyukuk.
23	Brown Bear	Residents of Units 21 and 23.
23	Caribou	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, residents of Galena, and residents of Units 22, 23, 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and 26(A).
23	Moose	Residents of Unit 23.
23, south of Kotzebue Sound and west of and including the Buckland River drainage.	Muskox	Residents of Unit 23 South of Kotzebue Sound and west of and including the Buckland River drainage.
23, remainder	Muskox	Residents of Unit 23 east and north of the Buckland River drainage.
23	Sheep	Residents of Point Lay and Unit 23 north of the Arctic Circle.
23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
23	Grouse (Spruce and Ruffed)	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22, and 23.
23	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22, and 23.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Black Bear	Residents of Stevens Village and residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, remainder	Black Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Brown Bear	Residents of Stevens Village and residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24, remainder	Brown Bear	Residents of Unit 24 including Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24	Caribou	Residents of Unit 24, Galena, Kobuk, Koyukuk, Stevens Village, and Tanana.
24	Moose	Residents of Unit 24, Koyukuk, and Galena.
24	Sheep	Residents of Unit 24 residing north of the Arctic Circle and residents of Allakaket, Alatna, Hughes, and Huslia.
24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 25(D)	Black Bear	Residents of Unit 25(D).
25(D)	Brown Bear	Residents of Unit 25(D).
25, remainder	Brown Bear	Residents of Unit 25 and Eagle.
25(D)	Caribou	Residents of 20(F), 25(D), and Manley.
25(A)	Moose	Residents of Units 25(A) and 25(D).
25(D) West	Moose	Residents of Unit 25(D) west.
25(D), remainder	Moose	Residents of remainder of Unit 25.
25(A)	Sheep	Residents of Arctic Village, Chalkytsik, Fort Yukon, Kaktovik, and Venetie.
25(B) and (C)	Sheep	No Federal subsistence priority.
25(D)	Wolf	Residents of Unit 25(D).

Area	Species	Determination
25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 26	Brown Bear	Residents of Unit 26 (except the Prudhoe Bay-Deadhorse Industrial Complex) and residents of Anaktuvuk Pass and Point Hope.
26(A)	Caribou	Residents of Unit 26, Anaktuvuk Pass and Point Hope.
26(B)	Caribou	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
26(C)	Caribou	Residents of Unit 26, Anaktuvuk Pass and Point Hope.
26	Moose	Residents of Unit 26, (except the Prudhoe Bay-Deadhorse Industrial Complex), and residents of Point Hope and Anaktuvuk Pass.
26(A)	Muskox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
26(B)	Muskox	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
26(C)	Muskox	Residents of Kaktovik.
26(A)	Sheep	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
26(B)	Sheep	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
26(C)	Sheep	Residents of Unit 26, Anaktuvuk Pass, Arctic Village, Chalkytsik, Fort Yukon, Point Hope, and Venetie.
26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.

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Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. In Subpart D of 36 CFR part 242 and 50 CFR part 100, § __.25 is revised to read as follows:

§ __.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) *Definitions.* The following definitions shall apply to all regulations contained in this part:

Abalone iron means a flat device which is used for taking abalone and which is more than 1 inch (24 mm) in width and less than 24 inches (610 mm) in length, with all prying edges rounded and smooth.

ADF&G means the Alaska Department of Fish and Game.

Airborne means transported by aircraft.

Aircraft means any kind of airplane, glider, or other device used to transport people or equipment through the air, excluding helicopters.

Airport means an airport listed in the Federal Aviation Administration, Alaska Airman's Guide and chart supplement.

Anchor means a device used to hold a fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor, or being secured to another vessel or net that is anchored.

Animal means those species with a vertebral column (backbone).

Antler means one or more solid, horn-like appendages protruding from the head of a caribou, deer, elk, or moose.

Antlered means any caribou, deer, elk, or moose having at least one visible antler.

Antlerless means any caribou, deer, elk, or moose not having visible antlers attached to the skull.

Bait means any material excluding a scent lure that is placed to attract an animal by its sense of smell or taste; however, those parts of legally taken animals that are not required to be salvaged and which are left at the kill site are not considered bait.

Beach seine means a floating net which is designed to surround fish and is set from and hauled to the beach.

Bear means black bear, or brown or grizzly bear.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow, or any bow equipped with a mechanical device that holds arrows at full draw.

Broadhead means an arrowhead that is not barbed and has two or more steel cutting edges having a minimum cutting diameter of not less than seven-eighths inch.

Brow tine means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

Buck means any male deer.

Bull means any male moose, caribou, elk, or musk oxen.

Cast net means a circular net with a mesh size of no more than 1½ inches and weights attached to the perimeter which, when thrown, surrounds the fish and closes at the bottom when retrieved.

Char means the following species: Arctic char *(Salvelinus alpinis)*; lake trout *(Salvelinus namaycush);* brook trout *(Salvelinus fontinalis)*, and Dolly Varden *(Salvelinus malma)*.

Closed season means the time when fish, wildlife, or shellfish may not be taken.

Crab means the following species: Red king crab *(Paralithodes camshatica)*; blue king crab *(Paralithodes platypus)*; brown king crab *(Lithodes aequispina)*; *Lithodes couesi;* all species of tanner or snow crab (*Chionoecetes* spp.); and Dungeness crab (*Cancer magister*).

Cub bear means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Depth of net means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed.

Designated hunter or fisherman means a Federally qualified hunter or fisherman who may take all or a portion of another Federally qualified hunter's or fisherman's harvest limit(s) only under situations approved by the Board.

Dip net means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed 5 feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Diving gear means any type of hard hat or skin diving equipment, including SCUBA equipment; a tethered, umbilical, surface-supplied unit; or snorkel.

Drainage means all of the lands and waters comprising a watershed, including tributary rivers, streams, sloughs, ponds, and lakes, which contribute to the water supply of the watershed.

Drift gillnet means a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed in one place.

Edible meat means the breast meat of ptarmigan and grouse, and, those parts of caribou, deer, elk, mountain goat, moose, musk oxen, and Dall sheep that are typically used for human consumption, which are: The meat of the ribs, neck, brisket, front quarters as far as the distal (bottom) joint of the radius-ulna (knee), hindquarters as far as the distal joint (bottom) of the tibia-fibula (hock) and that portion of the animal between the front and hindquarters; however, *edible meat* of species listed in this definition does not include: Meat of the head, meat that has been damaged and made inedible by the method of taking, bones, sinew, and incidental meat reasonably lost as a result of boning or close trimming of the bones, or viscera. For black bear, brown and grizzly bear, ''edible meat'' means the meat of the front quarter and hindquarters and meat along the backbone (backstrap).

Federally-qualified subsistence user means a rural Alaska resident qualified to harvest fish or wildlife on Federal public lands in accordance with the Federal Subsistence Management Regulations in this part.

Field means an area outside of established year-round dwellings, businesses, or other developments usually associated with a city, town, or village; *field* does not include permanent hotels or roadhouses on the State road system or at State or Federally maintained airports.

Fifty-inch (50-inch) moose means a bull moose with an antler spread of 50 inches or more.

Fish wheel means a fixed, rotating device, with no more than four baskets on a single axle, for catching fish, which is driven by river current or other means.

Freshwater of streams and rivers means the line at which freshwater is separated from saltwater at the mouth of streams and rivers by a line drawn headland to headland across the mouth as the waters flow into the sea.

Full curl horn means the horn of a Dall sheep ram; the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken, or that the sheep is at least 8 years of age as determined by horn growth annuli.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, red squirrel, flying squirrel, ground squirrel, marmot, wolf, or wolverine.

Fyke net means a fixed, funneling (fyke) device used to entrap fish.

Gear means any type of fishing apparatus.

Gillnet means a net primarily designed to catch fish by entanglement in a mesh that consists of a single sheet of webbing which hangs between cork line and lead line, and which is fished from the surface of the water.

Grappling hook means a hooked device with flukes or claws, which is attached to a line and operated by hand.

Groundfish or *bottomfish* means any marine fish except halibut, osmerids, herring and salmonids.

Grouse collectively refers to all species found in Alaska, including spruce grouse, ruffed grouse, blue grouse, and sharp-tailed grouse.

Hand purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

Handicraft means a finished product in which the shape and appearance of the natural material has been substantially changed by the skillful use of hands, such as sewing, carving, etching, scrimshawing, painting, or other means, and which has substantially greater monetary and aesthetic value than the unaltered natural material alone.

Handline means a hand-held and operated line, with one or more hooks attached.

Hare or hares collectively refers to all species of hares (commonly called rabbits) in Alaska and includes snowshoe hare and tundra hare.

Harvest limit means the number of any one species permitted to be taken by any one person or designated group, per specified time period, in a Unit or portion of a Unit in which the taking occurs even if part or all of the harvest is preserved. A fish, when landed and killed by means of rod and reel becomes part of the harvest limit of the person originally hooking it.

Herring pound means an enclosure used primarily to contain live herring over extended periods of time.

Highway means the driveable surface of any constructed road.

Household means that group of people residing in the same residence.

Hung measure means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

Hunting means the taking of wildlife within established hunting seasons with archery equipment or firearms, and as authorized by a required hunting license.

Hydraulic clam digger means a device using water or a combination of air and water used to harvest clams.

Jigging gear means a line or lines with lures or baited hooks, drawn through the water by hand, and which are operated during periods of ice cover from holes cut in the ice, or from shore ice and which are drawn through the water by hand.

Lead means either a length of net employed for guiding fish into a seine, set gillnet, or other length of net, or a length of fencing employed for guiding fish into a fish wheel, fyke net, or dip net.

Legal limit of fishing gear means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district, or section.

Long line means either a stationary, buoyed, or anchored line, or a floating, free-drifting line with lures or baited hooks attached.

Marmot collectively refers to all species of marmot that occur in Alaska including the hoary marmot, Alaska marmot, and the woodchuck.

Mechanical clam digger means a mechanical device used or capable of being used for the taking of clams.

Mechanical jigging machine means a mechanical device with line and hooks used to jig for halibut and bottomfish, but does not include hand gurdies or rods with reels.

Mile means a nautical mile when used in reference to marine waters or a statute mile when used in reference to fresh water.

Motorized vehicle means a motor-driven land, air, or water conveyance.

Open season means the time when wildlife may be taken by hunting or trapping; an open season includes the first and last days of the prescribed season period.

Otter means river or land otter only, excluding sea otter.

Permit hunt means a hunt for which State or Federal permits are issued by registration or other means.

Poison means any substance that is toxic or poisonous upon contact or ingestion.

Possession means having direct physical control of wildlife at a given time or having both the power and intention to exercise dominion or control of wildlife either directly or through another person or persons.

Possession limit means the maximum number of fish, grouse, or ptarmigan a person or designated group may have in possession if they have not been canned, salted, frozen, smoked, dried, or otherwise preserved so as to be fit for human consumption after a 15-day period.

Pot means a portable structure designed and constructed to capture and retain live fish and shellfish in the water.

Ptarmigan collectively refers to all species found in Alaska, including white-tailed ptarmigan, rock ptarmigan, and willow ptarmigan.

Purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

Ram means a male Dall sheep.

Registration permit means a permit that authorizes hunting and is issued to a person who agrees to the specified hunting conditions. Hunting permitted by a registration permit begins on an announced date and continues throughout the open season, or until the season is closed by Board action. Registration permits are issued in the order applications are received and/or are based on priorities as determined by 50 CFR 100.17 and 36 CFR 242.17.

Ring net means a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that free movement of fish or shellfish across the top of the net is not prohibited when the net is employed.

Rockfish means all species of the genus *Sebastes.*

Rod and reel means either a device upon which a line is stored on a fixed or revolving spool and is deployed through guides mounted on a flexible pole, or a line that is attached to a pole. In either case, bait or an artificial fly or lure is used as terminal tackle. This definition does not include the use of rod and reel gear for snagging.

Salmon means the following species: pink salmon *(Oncorhynchus gorbuscha)*; sockeye salmon *(Oncorhynchus nerka)*; chinook salmon *(Oncorhynchus tshawytscha)*; coho salmon *(Oncorhynchus kisutch)*; and chum salmon *(Oncorhynchus keta).*

Salmon stream means any stream used by salmon for spawning, rearing, or for traveling to a spawning or rearing area.

Salvage means to transport the edible meat, skull, or hide, as required by regulation, of a regulated fish, wildlife, or shellfish to the location where the edible meat will be consumed by humans or processed for human consumption in a manner which saves or prevents the edible meat from waste, and preserves the skull or hide for human use.

Scallop dredge means a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor.

Sea urchin rake means a hand-held implement, no longer than 4 feet, equipped with projecting prongs used to gather sea urchins.

Sealing means placing a mark or tag on a portion of a harvested animal by an authorized representative of the ADF&G; *sealing* includes collecting and recording information about the conditions under which the animal was harvested, and measurements of the specimen submitted for sealing or surrendering a specific portion of the animal for biological information.

Set gillnet means a gillnet that has been intentionally set, staked, anchored, or otherwise fixed.

Seven-eighths curl horn means the horn of a male Dall sheep, the tip of which has grown through seven-eights (315 degrees) of a circle, described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Shovel means a hand-operated implement for digging clams.

Skin, hide, pelt, or fur means any tanned or untanned external covering of an animal's body; excluding bear. The skin, hide, fur, or pelt of a bear shall mean the entire external covering with claws attached.

Spear means a shaft with a sharp point or fork-like implement attached to one end which is used to thrust through the water to impale or retrieve fish and which is operated by hand.

Spike-fork moose means a bull moose with only one or two tines on either antler; male calves are not spike-fork bulls.

Stretched measure means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under 5-pound weight.

Subsistence fishing permit means a permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.

Take or *Taking* means to fish, pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Tine or *antler point* refers to any point on an antler, the length of which is greater than its width and is at least one inch.

To operate fishing gear means any of the following: To deploy gear in the water; to remove gear from the water; to remove fish or shellfish from the gear during an open season or period; or to possess a gillnet containing fish during an open fishing period, except that a gillnet which is completely clear of the water is not considered to be operating for the purposes of minimum distance requirement.

Transportation means to ship, convey, carry, or transport by any means whatever and deliver or receive for such shipment, conveyance, carriage, or transportation.

Trapping means the taking of furbearers within established trapping seasons and with a required trapping license.

Trawl means a bag-shaped net towed through the water to capture fish or shellfish, and includes beam, otter, or pelagic trawl.

Troll gear means a power gurdy troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water by a power gurdy; hand troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing, or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical, or other assisting device or attachment; or dinglebar troll gear consisting of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

Trout means the following species: Cutthroat trout *(Oncorhynchus clarki)* and rainbow/steelhead trout *(Oncorhynchus mykiss).*

Unclassified wildlife or unclassified species means all species of animals not otherwise classified by the definitions in this paragraph (a), or regulated under other Federal law as listed in paragraph (i) of this section.

Ungulate means any species of hoofed mammal, including deer, caribou, elk, moose, mountain goat, Dall sheep, and musk oxen.

Unit means one of the 26 geographical areas in the State of Alaska known as Game Management Units, or GMU, and collectively listed in this section as Units.

Wildlife means any hare (rabbit), ptarmigan, grouse, ungulate, bear, furbearer, or unclassified species and includes any part, product, egg, or offspring thereof, or carcass or part thereof.

(b) Taking fish, wildlife, or shellfish for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting, trapping, or fishing during a closed season or in an area closed by this part is prohibited. You may not take for subsistence fish, wildlife, or shellfish outside established Unit or Area seasons, or in excess of the established Unit or Area harvest limits, unless otherwise provided for by the Board. You may take fish, wildlife, or shellfish under State regulations on public lands, except as otherwise restricted at §§ __.26 through __.28. Unit/Area-specific restrictions or allowances for subsistence taking of fish, wildlife, or shellfish are identified at §§ __.26 through __.28.

(c) *Harvest limits.* (1) Harvest limits authorized by this section and harvest limits established in State regulations may not be accumulated.

(2) Fish, wildlife, or shellfish taken by a designated individual for another person pursuant to § .10(d)(5)(ii), counts toward the individual harvest limit of the person for whom the fish, wildlife, or shellfish is taken.

(3) A harvest limit applies to the number of fish, wildlife, or shellfish that can be taken during a regulatory year; however, harvest limits for grouse, ptarmigan, and caribou (in some Units) are regulated by the number that may be taken per day. Harvest limits of grouse and ptarmigan are also regulated by the number that can be held in possession.

(4) Unless otherwise provided, any person who gives or receives fish, wildlife, or shellfish shall furnish, upon a request made by a Federal or State agent, a signed statement describing the following: Names and addresses of persons who gave and received fish, wildlife, or shellfish, the time and place that the fish, wildlife, or shellfish was taken, and identification of species transferred. Where a qualified subsistence user has designated another qualified subsistence user to take fish, wildlife, or shellfish on his or her behalf in accordance with §__.10(d)(5)(ii), the permit shall be furnished in place of a signed statement.

(d) *Fishing by designated harvest permit.* (1) Any species of fish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user, you (beneficiary) may designate another Federally-qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated fishing permit when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.

(4) The designated fisherman may not fish with more than one legal limit of gear.

(5) You may not designate more than one person to take or attempt to take fish on your behalf at one time. You may not personally take or attempt to take fish at the same time that a designated fisherman is taking or attempting to take fish on your behalf.

(e) Hunting by designated harvest permit. In Units 1–8, 9(D), 10–16, 18–26, if you are a Federally qualified subsistence user (recipient), you may designate another Federally qualified subsistence user to take deer, moose and caribou on your behalf unless you are a member of a community operating under a community harvest system or unless Unit specific regulations in section __.26 preclude or modify the use of the designated hunter system or allow the harvest of additional species by a designated hunter. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time, unless otherwise specified in Unit-Specific regulations in Section __.26.

(f) A rural Alaska resident who has been designated to take fish, wildlife, or shellfish on behalf of another rural Alaska resident in accordance with § __.10(d)(5)(ii), shall promptly deliver the fish, wildlife, or shellfish to that rural Alaska resident and may not charge the recipient for his/her services in taking the fish, wildlife, or shellfish or claim for themselves the meat or any part of the harvested fish, wildlife, or shellfish.

(g) The U.S. Fish and Wildlife Service, Office of Subsistence Management may issue a permit to harvest fish, wildlife, or shellfish for a qualifying cultural/educational program to an organization that has been granted a Federal subsistence permit for a similar event within the previous five years. A qualifying program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. Applications must be submitted to the Office of Subsistence Management 60 days prior to the earliest desired date of harvest. Permits will be issued for no more than one large mammal per culture/education camp. Large mammal species allowed to be harvested are limited to deer, moose, caribou, black bear, and mountain goat. Permits will be issued for no more than 25 fish per culture/education camp. Any animals harvested will count against any established Federal harvest quota for the area in which harvested. Appeal of a rejected request can be made to the Federal Subsistence Board. Application for an initial permit for a qualifying cultural/educational program, for a permit when the circumstances have changed significantly, when no permit has been issued within the previous five years, or when there is a request for harvest in excess of that provided in this paragraph (g), will be considered by the Federal Subsistence Board.

(h) If a subsistence fishing or hunting permit is required by this part, the following permit conditions apply unless otherwise specified in this section:

(1) You may not take more fish, wildlife, or shellfish for subsistence use than the limits set out in the permit;

(2) You must obtain the permit prior to fishing or hunting;

(3) You must have the permit in your possession and readily available for inspection while fishing, hunting, or transporting subsistence-taken fish, wildlife, or shellfish;

(4) If specified on the permit, you shall keep accurate daily records of the harvest, showing the number of fish, wildlife, or shellfish taken by species, location and date of harvest, and other such information as may be required for management or conservation purposes; and

(5) If the return of harvest information necessary for management and conservation purposes is required by a permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was

due to loss in the mail, accident, sickness, or other unavoidable circumstances.

(i) You may not possess, transport, give, receive, or barter fish, wildlife, or shellfish that was taken in violation of Federal or State statutes or a regulation promulgated thereunder.

(j) Utilization of fish, wildlife, or shellfish. (1) You may not use wildlife as food for a dog or furbearer, or as bait, except as allowed for in § __.26, § __.27, or § __.28, or except for the following:

(i) The hide, skin, viscera, head, or bones of wildlife;

(ii) The skinned carcass of a furbearer;

(iii) Squirrels, hares (rabbits), grouse, and ptarmigan; however, you may not use the breast meat of grouse and ptarmigan as animal food or bait;

(iv) Unclassified wildlife.

(2) If you take wildlife for subsistence, you must salvage the following parts for human use:

(i) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel, or otter;

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in the Western and Northwestern Alaska Brown Bear Management Areas and Units 5 and 9(B) need not be salvaged;

(iii) The hide and edible meat of a black bear;

(iv) The hide or meat of squirrels, hares (rabbits), marmots, beaver, muskrats, or unclassified wildlife.

(3) You must salvage the edible meat of ungulates, bear, grouse and ptarmigan.

(4) You may not intentionally waste or destroy any subsistence-caught fish or shellfish; however, you may use for bait or other purposes, whitefish, herring, and species for which bag limits, seasons, or other regulatory methods and means are not provided in this section, as well as the head, tail, fins, and viscera of legally-taken subsistence fish.

(5) Failure to salvage the edible meat may not be a violation if such failure is caused by circumstances beyond the control of a person, including theft of the harvested fish, wildlife, or shellfish, unanticipated weather conditions, or unavoidable loss to another animal.

(6) You may sell handicraft articles made from the fur of a black bear.

(k) The regulations found in this part do not apply to the subsistence taking and use of fish, wildlife, or shellfish regulated pursuant to the Fur Seal Act of 1966 (80 Stat. 1091, 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), or any amendments to these Acts. The taking and use of fish, wildlife, or shellfish, covered by these Acts, will conform to the specific provisions contained in these Acts, as amended, and any implementing regulations.

(l) Rural residents, nonrural residents, and nonresidents not specifically prohibited by Federal regulations from fishing, hunting, or trapping on public lands in an area, may fish, hunt, or trap on public lands in accordance with the appropriate State regulations.

■ 4. In Subpart D of 36 CFR part 242 and 50 CFR part 100, § __.26 is added effective July 1, 2003, through June 30, 2004, to read as follows:

§ __.26 Subsistence taking of wildlife.

(a) You may take wildlife for subsistence uses by any method, except as prohibited in this section or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this part is prohibited.

(b) Except for special provisions found at paragraphs (m)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

(1) Shooting from, on, or across a highway;

(2) Using any poison;

(3) Using a helicopter in any manner, including transportation of individuals, equipment, or wildlife; however, this prohibition does not apply to transportation of an individual, gear, or wildlife during an emergency rescue operation in a life-threatening situation;

(4) Taking wildlife from a motorized land or air vehicle, when that vehicle is in motion or from a motor-driven boat when the boat's progress from the motor's power has not ceased;

(5) Using a motorized vehicle to drive, herd, or molest wildlife;

(6) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge;

(7) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle or pistol using center-firing cartridges, for the taking of ungulates, bear, wolves or wolverine, except that—

(i) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine;

(ii) Only a muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, elk, moose, musk oxen and mountain goat;

(8) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over nine inches, or conibear style trap with a jaw spread over 11 inches;

(9) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and, individuals in possession of a valid trapping license may use snares to take furbearers;

(10) Using a trap to take ungulates or bear;

(11) Using hooks to physically snag, impale, or otherwise take wildlife; however, hooks may be used as a trap drag;

(12) Using a crossbow to take ungulates, bear, wolf, or wolverine in any area restricted to hunting by bow and arrow only;

(13) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting a 7/8 inch wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least one ounce (437.5 grains);

(14) Using bait for taking ungulates, bear, wolf, or wolverine; except, you may use bait to take wolves and wolverine with a trapping license, and, you may use bait to take black bears with a hunting license as authorized in Unit-specific regulations at paragraphs (m)(1) through (26) of this section. Baiting of black bears is subject to the following restrictions:

(i) Before establishing a black bear bait station, you must register the site with ADF&G;

(ii) When using bait you must clearly mark the site with a sign reading ''black bear bait station'' that also displays your hunting license number and ADF&G assigned number;

(iii) You may use only biodegradable materials for bait; you may use only the head, bones, viscera, or skin of legally harvested fish and wildlife for bait;

(iv) You may not use bait within one-quarter mile of a publicly maintained road or trail;

(v) You may not use bait within one mile of a house or other permanent dwelling, or within one mile of a developed campground, or developed recreational facility;

(vi) When using bait, you must remove litter and equipment from the bait station site when done hunting;

(vii) You may not give or receive payment for the use of a bait station, including barter or exchange of goods;

(viii) You may not have more than two bait stations with bait present at any one time;

(15) Taking swimming ungulates, bears, wolves or wolverine;

(16) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft); however, this restriction does not apply to subsistence taking of deer, the setting of snares or traps, or the removal of furbearers from traps or snares;

(17) Taking a bear cub or a sow accompanied by cub(s).

(c) Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(d) The following methods and means of trapping furbearers, for subsistence uses pursuant to the requirements of a trapping license are prohibited, in addition to the prohibitions listed at paragraph (b) of this section:

(1) Disturbing or destroying a den, except that you may disturb a muskrat pushup or feeding house in the course of trapping;

(2) Disturbing or destroying any beaver house;

(3) Taking beaver by any means other than a steel trap or snare, except that you may use firearms in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(4) Taking otter with a steel trap having a jaw spread of less than five and seven-eighths inches during any closed mink and marten season in the same Unit;

(5) Using a net, or fish trap (except a blackfish or fyke trap);

(6) Taking or assisting in the taking of furbearers by firearm before 3 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare.

(e) *Possession and transportation of wildlife.* (1) Except as specified in paragraph (e)(2) or (f)(1) of this section, or as otherwise provided, you may not take a species of wildlife in any Unit, or portion of a Unit, if your total take of that species already obtained anywhere in the State under Federal and State regulations equals or exceeds the harvest limit in that Unit.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to §__.10(d)(5)(iii) or as otherwise provided for by this Part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

(f) *Harvest limits.* (1) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that if you have taken a harvest limit for a particular species under a trapping season, you may take additional animals under the harvest limit specified for a hunting season or vice versa.

(2) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of one brown/grizzly bear per year counts against a one brown/grizzly bear every four regulatory years harvest limit in other Units; an individual may not take more than one brown/grizzly bear in a regulatory year.

(g) *Evidence of sex and identity.* (1) If subsistence take of Dall sheep is restricted to a ram, you may not possess or transport a harvested sheep unless both horns accompany the animal.

(2) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, you may not possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal, except in Units 11, 13, 19, 21, and 24 where you may possess either sufficient portions of the external sex organs (still attached to a portion of the carcass) or the head (with or without antlers attached; however, the antler stumps must remain attached), to indicate the sex of the harvested moose; however, this paragraph (g)(2) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(3) If a moose harvest limit requires an antlered bull, an antler size, or configuration restriction, you may not possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. If you possess a set of antlers with less than the required number of brow tines on one antler, you must leave the antlers naturally attached to the unbroken, uncut skull plate; however, this paragraph (g)(3) does not apply to a moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(h) You must leave all edible meat on the bones of the front quarters and hind quarters of caribou and moose harvested in Units 9(B), 17, 18 south of the Yukon River, and 19(B) prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of moose harvested in Unit 21 prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 24 prior to October 1 until you remove the meat from the field or process it for human consumption. Meat of the front quarters, hind quarters, or ribs from a harvested moose or caribou may be processed for human consumption and consumed in the field; however, meat may not be removed from the bones for purposes of transport out of the field.

(i) If you take an animal that has been marked or tagged for scientific studies, you must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker, when and where the animal was taken. You also must retain any ear tag, collar, radio, tattoo, or other identification with the hide until it is sealed, if sealing is required; in all cases, you must return any identification equipment to the ADF&G or to an agency identified on such equipment.

(j) *Sealing of bear skins and skulls.* (1) Sealing requirements for bear shall apply to brown bears taken in all Units, except as specified in this paragraph, and black bears of all color phases taken in Units 1–7, 11–17, and 20.

(2) You may not possess or transport from Alaska, the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in the Western Alaska Brown Bear Management Area, the Northwest Alaska Brown Bear Management Area, Unit 5, or Unit 9(B) need not be sealed unless removed from the area.

(3) You must keep a bear skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision shall not apply to brown bears taken within the Western Alaska Brown Bear Management Area, the Northwest Alaska Brown Bear

Management Area, Unit 5, or Unit 9(B) which are not removed from the Management Area or Unit.

(i) In areas where sealing is required by Federal regulations, you may not possess or transport the hide of a bear which does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in the Western Alaska Brown Bear Management Area is removed from the area, you must first have it sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iii) If you remove the skin or skull of a bear taken in the Northwestern Alaska Brown Bear Management Area from the area or present it for commercial tanning within the Management Area, you must first have it sealed by an ADF&G representative in Barrow, Fairbanks, Galena, Nome, or Kotzebue; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iv) If you remove the skin or skull of a bear taken in Unit 5 from the area, you must first have it sealed by an ADF&G representative in Yakutat; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(4) You may not falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(k) *Sealing of beaver, lynx, marten, otter, wolf, and wolverine.* You may not possess or transport from Alaska the untanned skin of a marten taken in Units 1–5, 7, 13(E), and 14–16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the State, unless the skin has been sealed by an authorized representative of ADF&G in accordance with State regulations. In Unit 18, you must obtain an ADF&G seal for beaver skins only if they are to be sold or commercially sold.

(1) You must seal any wolf taken in Unit 2 on or before the 30th day after the date of taking.

(2) You must leave the radius and ulna of the left foreleg naturally attached to the hide of any wolf taken in Units 1–5 until the hide is sealed.

(l) If you take a species listed in paragraph (k) of this section but are unable to present the skin in person, you must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in paragraph (k) of this section.

(m) You may take wildlife, outside of established season or harvest limits, for food in traditional religious ceremonies, that are part of a funerary or mortuary cycle, including memorial potlatches, under the following provisions:

(1) The harvest does not violate recognized principles of wildlife conservation and uses the methods and means allowable for the particular species published in the applicable Federal regulations. The appropriate Federal land manager will establish the number, species, sex, or location of harvest, if necessary, for conservation purposes. Other regulations relating to ceremonial harvest may be found in the unit-specific regulations in § __.26(n).

(2) No permit or harvest ticket is required for harvesting under this section; however, the harvester must be a Federally qualified subsistence user with customary and traditional use in the area where the harvesting will occur.

(3) In Units 1–26 (except for Koyukon/Gwich'in potlatch ceremonies in Units 20(F), 21, 24, or 25):

(i) A tribal chief, village council president or the chief's or president's designee for the village in which the religious ceremony will be held, or a Federally qualified subsistence user outside of a village or tribal-organized ceremony, must notify the nearest Federal land manager that a wildlife harvest will take place. The notification must include the species, harvest location, and number of animals expected to be taken.

(ii) Immediately after the wildlife is taken, the tribal chief, village council president or designee, or other Federally qualified subsistence user must create a list of the successful hunters and maintain these records including the name of the decedent for whom the ceremony will be held. If requested, this information must be available to an authorized representative of the Federal land manager.

(iii) The tribal chief, village council president or designee, or other Federally qualified subsistence user outside of the village in which the religious ceremony will be held must report to the Federal land manager the harvest location, species, sex, and number of animals taken as soon as practicable, but not more than 15 days after the wildlife is taken.

(4) In Units 20(F), 21, 24, and 25 (for Koyukon/Gwich'in potlatch ceremonies only):

(i) Taking wildlife outside of established season and harvest limits is authorized if it is for food for the traditional Koyukon/Gwich'in Potlatch Funerary or Mortuary ceremony and if it is consistent with conservation of healthy populations.

(ii) Immediately after the wildlife is taken, the tribal chief, village council president, or the chief's or president's designee for the village in which the religious ceremony will be held must create a list of the successful hunters and maintain these records. The list must be made available, after the harvest is completed, to a Federal land manager upon request.

(iii) As soon as practical, but not more than 15 days after the harvest, the tribal chief, village council president, or designee must notify the Federal land manager about the harvest location, species, sex, and number of animals taken.

(n) Unit regulations. You may take for subsistence unclassified wildlife, all squirrel species, and marmots in all Units, without harvest limits, for the period of July 1–June 30. Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (m)(1) through (26) of this section.

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1(A) consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound;

(ii) Unit 1(B) consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound, and Seward Passage;

(iii) Unit 1(C) consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay;

(iv) Unit 1(D) consists of that portion of Unit 1 north of the latitude of Eldred

Rock, excluding Sullivan Island and the drainages of Berners Bay;

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1(A)—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1(B)—the Anan Creek drainage within one mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a one-mile radius from the mouth of Anan Creek Lagoon, is closed to the taking of black bear and brown bear;

(D) Unit 1(C):

(*1*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area;

(*2*) You may not take mountain goat in the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier;

(vi) You may not trap furbearers for subsistence uses in Unit 1(C), Juneau area, on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail;

(vii) Unit-specific regulations:

(A) You may hunt black bear with bait in Units 1(A), 1(B), and 1(D) between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1(A)–4 antlered deer	Aug. 1–Dec. 31.
Unit 1(B)–2 antlered deer	Aug. 1–Dec. 31.
Unit 1(C)–4 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1(A)–Revillagigedo Island only	No open season.
Unit 1(B)–that portion north of LeConte Bay. 1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1(A) and 1(B), that portion on the Cleveland Peninsula south of the divide between Yes Bay and Santa Anna Inlet.	No open season.
Unit 1(A) and Unit 1(B)–remainder–2 goats; a State registration permit will be required for the taking of the first goat and a Federal registration permit for the taking of a second goat. The taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1(C)–that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River, and all drainages of the Chilkat Range south of the Endicott River–1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1(C)–that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier.	No open season.
Unit 1(C)–remainder–1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1(D)–that portion lying north of the Katzehin River and northeast of the Haines highway–1 goat by State registration permit only.	Sept. 15–Nov. 30.
Unit 1(D)–that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Unit 1(D)–remainder–1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1(A)–1 antlered bull by Federal registration permit	Sept. 5–Oct. 15.
Unit 1(B)–1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1(C), that portion south of Point Hobart including all Port Houghton drainages–1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1(C)–remainder, excluding drainages of Berners Bay–1 antlered bull by State registration permit only	Sept. 15–Oct. 15.
Unit 1(D)	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	

Harvest limits	Open season
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 1(A), (B), and (C)–No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(2) *Unit 2.* Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the western most point on Warren Island.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
4 deer by Federal registration permit; however, no more than one may be an antlerless deer. Antlerless deer may be taken only during the period Oct. 15–Dec. 31.	July 24–Dec. 31.
The Federal public lands on Prince of Wales Island are closed to hunting of deer from Aug. 1 to Aug. 21, except by Federally-qualified subsistence users.	
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: wolves. The Forest Supervisor (or designee) may close the Federal hunting and trapping season in consultation with ADF&G and the Chair of the Southeast Alaska Subsistence Regional Advisory Council, when the combined Federal-State harvest quota is reached.	Sept. 1–Mar. 15.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):.	
No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 15–Mar. 15.
Wolverine: No limit	Nov. 10–Apr. 30.

(3) *Unit 3.* (i) Unit 3 consists of all islands west of Unit 1(B), north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevarof, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground;

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island;

(C) You may not hunt in the Blind Slough draining into Wrangell Narrows and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
Unit 3—Mitkof, Woewodski, and Butterworth Islands—1 antlered deer	Oct. 15–Oct. 31.
Unit 3—remainder—2 antlered deer	Aug. 1–Nov. 30.
Moose: 1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler by State registration permit only.	Sept. 15–Oct. 15.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 3—Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10.–Apr. 30.

(4) *Unit 4.* (i) Unit 4 consists of all islands south and west of Unit 1(C) and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take bears in the Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands;

(B) You may not take bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay;

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock);

(D) You may not use any motorized land vehicle for brown bear hunting in the Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwest point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay;

(E) You may not use any motorized land vehicle for the taking of marten, mink, and weasel on Chichagof Island.

(iii) Unit-specific regulations:

(A) You may shoot ungulates from a boat. You may not shoot bear, wolves, or wolverine from a boat, unless you are certified as disabled;

(B) Five Federal registration permits will be issued for the taking of brown bear for educational purposes associated with teaching customary and traditional subsistence harvest and use practices. Any bear taken under an educational permit does not count in an individual's one bear every four regulatory years limit.

Harvest limits	Open season
Hunting	
Brown Bear:	
Unit 4—Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136° 21′ W. long.) to Rodgers Point (57° 35′ N. lat., 135° 33′ W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57° 34′ N. lat., 135° 25′ W. long.) to the entrance of Gut Bay (56° 44′ N. lat., 134° 38′ W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only.	Sept. 15–Dec. 31. Mar. 15–May 31.
Unit 4—remainder—1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 20.
Deer: 6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31	Aug. 1–Jan. 31.
Goat: 1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: Unit 4—that portion east of Chatham Strait—No limit	Dec. 1–May 15.
Remainder of Unit 4	No open season.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Apr. 30.

(5) *Unit 5.* (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5(A) consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(B) Unit 5(B) consists of the remainder of Unit 5.

(ii) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled;

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag; if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear by Federal registration permit only	Sept. 1–May 31.
Deer:	
Unit 5(A)—1 buck	Nov. 1–Nov. 30.
Unit 5(B)	No open season.
Goat:	
Unit 5(A)—that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord—1 goat by Federal registration permit. The Yakutat District Ranger and ADF&G will jointly announce the harvest quota prior to the season. A minimum of two goats in the harvest quota will be reserved for Federally qualified subsistence users. The season will be closed by local announcement when the quota has been taken. The harvest quota and season announcements will be made in consultation with NPS and local residents.	Aug. 1–Jan. 31.
Unit 5(A)—remainder—1 goat by Federal registration permit. The Yakutat District Ranger and ADF&G will jointly announce the harvest quota prior to the season. A minimum of four goats in the harvest quota will be reserved for Federally qualified subsistence users. The season will be closed by local announcement when the quota has been taken. The harvest quota and season announcements will be made in consultation with NPS and local residents.	Aug. 1–Jan. 31.
Unit 5(B)—1 goat by Federal registration permit only.	Aug. 1–Jan. 31.
Moose:	
Unit 5(A), Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench..	Nov. 15–Feb. 15.

Harvest limits	Open season
Unit 5(A), except Nunatak Bench—1 antlered bull by Federal registration permit only. The season will be closed when 60 antlered bulls have been taken from the Unit. The season will be closed in that portion west of the Dangerous River when 30 antlered bulls have been taken in that area. From Oct. 8—Oct. 21, public lands will be closed to taking of moose, except by residents of Unit 5(A).	Oct. 8–Nov. 15.
Unit 5(B)—1 antlered bull by State registration permit only. The season will be closed when 25 antlered bulls have been taken from the entirety of Unit 5(B).	Sept. 1–Dec. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Nov. 10–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Nov. 10–Feb. 15.
Mink and Weasel:	
No limit	Nov. 10–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Nov. 10–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(6) *Unit 6*. (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6(A) consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6(B) consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6(C) consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6(D) consists of the remainder of Unit 6.

(ii) For the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take mountain goat in the Goat Mountain goat observation area, which consists of that portion of Unit 6(B) bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River;

(B) You may not take mountain goat in the Heney Range goat observation area, which consists of that portion of Unit 6(C) south of the Copper River Highway and west of the Eyak River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may take coyotes in Units 6(B) and 6(C) with the aid of artificial lights;

(C) One permit will be issued to the Native Village of Eyak to take one bull moose from Federal lands in Units 6(B) or (C) for their annual Memorial/Sobriety Day potlatch;

(D) A Federally-qualified subsistence user (recipient) who is either blind, 65 years of age or older, at least 70 percent disabled, or temporarily disabled may designate another Federally-qualified subsistence user to take any moose, deer, black bear and beaver on his or her behalf in Unit 6, unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but may have no more than one harvest limit in his or her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear: 1 bear	Sept. 1–June 30.
Deer: 4 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31	Aug. 1–Dec. 31.
Goats:	
Unit 6(A), (B)—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6(C)	No open season.
Unit 6(D) (subareas RG242, RG243, RG244, RG249, RG266 and RG252 only)—1 goat by Federal registration permit only. In each of the Unit 6(D) subareas, goat seasons will be closed when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG243—4 goats, RG244—2 goats, RG249—4 goats, RG266—4 goats, RG252—1 goat.	Aug. 20–Jan. 31.
Unit 6(D) (subarea RG245)—Federal public lands are closed to all taking of goats	No open season.
Moose:	
Unit 6(C)—1 cow by Federal registration permit only.	Sept. 1–Oct. 31.
Unit 6(C)—1 bull by Federal registration permit only.	Sept. 1–Dec. 31.
(In Unit 6(C), only one moose permit may be issued per household. A household receiving a State permit may not receive a Federal permit. The annual harvest quota will be announced by the U.S. Forest Service, Cordova Office, in consultation with ADF&G. The Federal harvest allocation will be 100% of the cow permits and 75% of the bull permits.).	
Unit 6—remainder	No open season.
Beaver: 1 beaver per day, 1 in possession.	May 1–Oct. 31.
Coyote:	
Unit 6(A) and (D)—2 coyotes	Sept. 1–Apr. 30.
Unit 6(B) and 6(C)—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases)	No open season.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx:	No open season.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–Apr. 30.
Coyote:	
Unit 6(C)—south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Unit 6(A), (B), (C)—remainder, and (D)—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(7) *Unit 7.* (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Kenai Fjords National Park;

(B) You may not hunt in the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek, and Byron Glacier; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15; except in the drainages of Resurrection Creek and its tributaries.

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: Unit 7—3 bears	July 1–June 30.
Moose:	
Unit 7—that portion draining into Kings Bay—1 bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler may be taken by the community of Chenega Bay and also by the community of Tatitlek. Public lands are closed to the taking of moose except by eligible rural residents.	Aug. 10–Sept. 20.
Unit 7—remainder	No open season.
Beaver: 1 beaver per day, 1 in possession	May 1–Oct. 10.
Coyote: No limit	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.

Harvest limits	Open season
Wolf:	
Unit 7—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7—Remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce): 10 per day, 20 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: 20 beaver per season	Nov. 10–Mar. 31.
Coyote: No limit.	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit.	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(8) *Unit 8.* Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) If you have a trapping license, you may take beaver with a firearm in Unit 8 from Nov. 10–Apr. 30.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Brown Bear: 1 bear by Federal registration permit only. Up to 1 permit may be issued in Akhiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 2 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions.	Dec. 1–Dec. 15. Apr. 1–May 15.
Deer: Unit 8—all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—3 deer; however, antlerless deer may be taken only from Nov. 1–Jan. 31.	Aug. 1–Jan. 31.
Elk: Kodiak, Ban, Uganik, and Afognak Islands—1 elk per household by Federal registration permit only. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge when the combined Federal/State harvest reaches 15% of the herd.	Sept. 15–Nov.30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: 30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Jan. 31.

(9) *Unit 9.* (i) Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9(A) consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve;

(B) Unit 9(B) consists of the Kvichak River drainage;

(C) Unit 9(C) consists of the Alagnak (Branch) River drainage, the Naknek River drainage, and all land and water within Katmai National Park and Preserve;

(D) Unit 9(D) consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands;

(E) Unit 9(E) consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in Katmai National Park;

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts from Aug. 1–Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9(C) within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, you may use a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek;

(C) You may hunt brown bear by State registration permit in lieu of a resident tag in the Western Alaska Brown Bear Management Area which consists of Units 9(B) except that portion within the Lake Clark National Park and Preserve, 17, 18, and those portions of 19(A) and (B) downstream of and

including the Aniak River drainage, if you have obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 9(B) from April 1–May 31 and in the remainder of Unit 9 from April 1–April 30;

(B) In Unit 9(B), Lake Clark National Park and Preserve, residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth, may hunt brown bear by Federal registration permit in lieu of a resident tag; ten permits will be available with at least one permit issued in each community but no more than five permits will be issued in a single community; the season will be closed when four females or ten bears have been taken, whichever occurs first;

(C) Residents of Newhalen, Nondalton, Iliamna, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9(B) for ceremonial purposes, under the terms of a Federal registration permit from July 1 through June 30. Permits will be issued to individuals only at the request of a local organization. This 10 moose limit is not cumulative with that permitted for potlatches by the State;

(D) For Units 9(C) and (E) only, a Federally-qualified subsistence user (recipient) of Units 9(C) and (E) may designate another Federally-qualified subsistence user of Units 9(C) and (E) to take bull caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report and turn over all meat to the recipient. There is no restriction on the number of possession limits the designated hunter may have in his/her possession at any one time;

(E) For Unit 9(D), a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time;

(F) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through May 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9(D) or Unit 10 (Unimak Island) only.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears.	July 1–June 30.
Brown Bear:	
Unit 9(B)—Lake Clark National Park and Preserve—Rural residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth only—1 bear by Federal registration permit only.	July 1–June 30.
Unit 9(B), remainder—1 bear by State registration permit only	Sept. 1–May 31.
Unit 9(E)—1 bear by Federal registration permit	Sept. 25–Dec. 31. Apr. 15–May 25.
Caribou:	
Unit 9(A)—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Sept. 30 and no more than 1 caribou may be taken Oct. 1–Nov. 30..	Aug. 10–Mar. 31,
Unit 9(C), that portion within the Alagnak River drainage—1 caribou	Aug. 1–Mar. 31.
Unit 9(C), remainder—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of caribou except by residents of Units 9(C) and (E).	Nov. 15–Feb. 28.
Unit 9(B)—5 caribou; however, no more than 2 bulls may be taken from Oct. 1–Nov. 30.	Aug. 1–Apr. 15.
Unit 9(D)—1 caribou by Federal registration permit	Aug. 1–Sept. 30. Nov. 15–Mar. 31.
Unit 9(E)—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of caribou except by residents of Units 9(C) and (E).	Aug. 10–Sept. 20. Nov. 1–Apr. 30.
Sheep:	
Unit 9(B)—Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and residents of Lake Clark National Park and Preserve within Unit 9(B).—1 ram with 7/8 curl horn by Federal registration permit only.	Aug. 10–Oct. 10.
Remainder of Unit 9—1 ram with 7/8 curl horn	Aug. 10–Sept. 20.
Moose:	
Unit 9(A)—1 bull.	Sept. 1–Sept. 15.
Unit 9(B)—1 bull.	Aug. 20–Sept. 15. Dec. 1–Jan. 15.
Unit 9(C)—that portion draining into the Naknek River from the north—1 bull	Sept. 1–Sept. 15. Dec. 1–Dec. 31.
Unit 9(C)—that portion draining into the Naknek River from the south—1 bull. However, during the period Aug. 20–Aug. 31, bull moose may be taken by Federal registration permit only. During the December hunt, anterless moose may be taken by Federal registration permit only. The anterless season will be closed when 5 anterless moose have been taken. Public lands are closed during December for the hunting of moose, except by eligible rural Alaska residents.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Unit 9(C)—remainder—1 bull.	Sept. 1–Sept. 15. Dec. 15–Jan. 15.
Unit 9(D)—1 bull by Federal registration permit. Federal public lands will be closed to the harvest of moose when a total of 10 bulls have been harvested between State and Federal hunts.	Dec. 15–Jan. 20.
Unit 9(E)—1 bull.	Aug. 20–Sept. 20. Dec. 1–Jan. 20.
Coyote:	
2 coyotes	Sept. 1.–Apr. 30.

Harvest limits	Open season
Fox, Arctic (Blue and White):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit	Oct. 10–Mar. 31.
2 beaver per day; only firearms may be used.	Apr. 15–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White):	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(10) *Unit 10.* (i) Unit 10 consists of the Aleutian Islands, Unimak Island, and the Pribilof Islands.

(ii) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

(iii) In Unit 10—Unimak Island only, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(iv) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through May 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9(D) or Unit 10 (Unimak Island) only.

Harvest limits	Open season
Hunting	
Caribou:	
Unit 10—Unimak Island only—2 caribou by Federal registration permit only	Aug. 1–Sept. 30. Nov. 15–Mar. 31.
Unit 10—remainder—No limit	July 1–June 30.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 11–1 bear	Aug. 10–June 15.
Caribou: Unit 11	No open season.
Sheep:	
1 sheep	Aug. 10–Sept. 20.
1 sheep by Federal registration permit only by persons 60 years of age or older	Sept. 21–Oct. 20.
Goat: Unit 11—that portion within the Wrangell-St. Elias National Park and Preserve—1 goat by Federal registration permit only. Federal public lands will be closed to the harvest of goats when a total of 45 goats have been harvested between Federal and State hunts.	Aug. 25–Dec. 31.
Moose: 1 antlered bull by Federal registration permit only	Aug. 20–Sept. 20.
Beaver: 1 beaver per day, 1 in possession	June 1–Oct. 10.
Coyote: 10 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Dec. 15–Jan. 15.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Jan 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: 30 beaver per season	Nov. 10–Apr. 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 1–Jan. 15.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Jan. 31.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may not use a steel trap, or a snare using cable smaller than 3/32 inch diameter to trap coyotes or wolves in Unit 12 during April and October;

(C) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 3 bears.	July 1–June 30.
Brown Bear: 1 bear	Aug. 10–June 30.
Caribou:	

Harvest limits	Open season
Unit 12—that portion of the Nabesna River drainage within the Wrangell-St. Elias National Park and season. Preserve and all Federal lands south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—The taking of caribou is prohibited on Federal public lands.	No open season.
Unit 12—remainder—1 bull	Sept. 1–Sept. 20.
Unit 12—remainder—1 caribou may be taken by a Federal registration permit during a winter season to be announced. Dates for a winter season to occur between Oct. 1 and Apr. 30 and sex of animal to be taken will be announced by Tetlin National Wildlife Refuge Manager in consultation with Wrangell-St. Elias National Park and Preserve Superintendent, Alaska Department of Fish and Game area biologists, and Chairs of the Eastern Interior Regional Advisory Council and Upper Tanana/Fortymile Fish and Game Advisory Committee.	
Sheep: 1 ram with full curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 12—that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to the southern boundary of the Tetlin National Wildlife Refuge—1 antlered bull. The November season is open by Federal registration permit only.	Aug. 24–Aug. 28. Sept. 8–Sept. 17. Nov. 20–Nov. 30.
Unit 12—that portion lying east of the Nabesna River and Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Aug. 24–Sept. 30.
Unit 12—remainder—1 antlered bull with spike/fork antlers	Aug. 15–Aug. 28.
Unit 12—remainder—1 antlered bull.	Sept. 1–Sept. 15.
Beaver: Unit 12—Wrangell-Saint Elias National Park and Preserve—6 beaver per season. Meat from harvested. beaver must be salvaged for human consumption.	Sept. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Mar. 15.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: 15 beaver per season. Only firearms may be used during Sept. 20–Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1–Apr. 15. The total annual harvest limit for beaver is 15, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption..	Sept. 20–May 15.
Coyote: No limit	Oct. 15–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30	Nov. 1–Jan. 31.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Sept. 20–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(13) *Unit 13*. (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north and east bank of the Talkeetna River including the Talkeetna River to its confluence with Clear Creek, the eastside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeast shore of lake 4408, then southeast in a straight line to the northern most fork of the Chickaloon River; the drainages into the east bank of the Chickaloon River below the line from lake 4408; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13(A) consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna

River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(B) Unit 13(B) consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning;

(C) Unit 13(C) consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(D) Unit 13(D) consists of that portion of Unit 13 south of Unit 13(A);

(E) Unit 13(E) consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5–Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: A line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle bench mark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River;

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Board, you may not use motorized vehicles for subsistence hunting, is prohibited in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13(B) bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Meiers Creek Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning;

(D) You may not use any motorized vehicle or pack animal for hunting, including the transportation of hunters, their hunting gear, and/or parts of game from July 26 to September 30 in the Tonsina Controlled Use Area. The Tonsina Controlled Use Area consists of that portion of Unit 13(D) bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgeton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears.	July 1–June 30.
Brown Bear:	
1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
Caribou:	
Unit 13(A)and (B)—2 caribou by Federal registration permit only. Only bulls may be taken during the Aug. 10–Sept. 30. season. During the winter season (Oct. 21–Mar. 31), the sex of animals that may be taken will be announced by the Glennallen Field Office Manager of the Bureau of Land Management in consultation with the Alaska Department of Fish and Game area biologist and Chairs of the Eastern Interior Regional Advisory Council and the Southcentral Regional Advisory Council.	Aug. 10–Sept. 30. Oct. 21–Mar. 31.
Unit 13—remainder—2 bulls by Federal registration permit only	Aug. 10–Sept. 30. Oct. 21–Mar. 31.
Hunting within the Trans-Alaska Oil Pipeline right-of-way is prohibited. The right-of-way is identified as the area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline	
Sheep:	
Unit 13—excluding Unit 13(D) and the Tok Management Area and Delta Controlled Use Area—1 ram with 7/8 curl horn.	Aug. 10–Sept. 20.
Moose:	
Unit 13(E)—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household	Aug. 1–Sept. 20.
Unit 13—remainder—1 antlered bull moose by Federal registration permit only	Aug. 1–Sept. 20.
Beaver:	
1 beaver per day, 1 in possession	June 15–Sept. 10.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15
Hare (Snowshoe):	
No limit	July 1–June 30
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	

Harvest limits	Open season
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Oct. 10–May 15.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
Unit 13(A–D)—No limit	Nov. 10–Feb. 28.
Unit 13—remainder—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Oct. 15–Apr. 30.
Wolverine:	
No limit	Nov. 10–Jan. 31.

(14) *Unit 14.* (i) Unit 14 consists of drainages into the north side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the north side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south and west bank of the Talkeetna River to its confluence with Clear Creek, the westside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeast shore of lake 4408, then southeast in a straight line to the northern most fork of the Chickaloon River:

(A) Unit 14(A) consists of drainages in Unit 14 bounded on the west by the east bank of the Susitna River, on the north by the north bank of Willow Creek and Peters Creek to its headwaters, then east along the hydrologic divide separating the Susitna River and Knik Arm drainages to the outlet creek at lake 4408, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the north side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14(B) consists of that portion of Unit 14 north of Unit 14(A);

(C) Unit 14(C) consists of that portion of Unit 14 south of Unit 14(A).

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservation;

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

Harvest limits	Open season
Hunting	
Black Bear: Unit 14(C)—1 bear	July 1–June 30.
Beaver: Unit 14(C)—1 beaver per day, 1 in possession	May 15–Oct. 31.
Coyote: Unit 14(C)—2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): Unit 14(C)—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): Unit 14(C)—5 hares per day	Sept. 8–Apr. 30.
Lynx: Unit 14(C)—2 lynx	Dec. 15–Jan. 15.
Wolf: Unit 14(C)—5 wolves	Aug. 10–Apr. 30.
Wolverine: Unit 14(C)—1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): Unit 14(C)—5 per day, 10 in possession	Sept. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): Unit 14(C)—10 per day, 20 in possession	Sept. 8–Mar. 31.
Trapping	
Beaver: Unit 14(C)—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote: Unit 14(C)—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): Unit 14(C)—1 fox	Nov. 10–Feb. 28.

Harvest limits	Open season
Marten: Unit 14(C)—No limit	Nov. 10–Jan. 31.
Mink and Weasel: Unit 14(C)—No limit	Nov. 10–Jan. 31.
Muskrat: Unit 14(C)—No limit	Nov. 10–May 15.
Otter: Unit 14(C)—No limit	Nov. 10–Feb. 28.
Wolf: Unit 14(C)—No limit	Nov. 10–Feb. 28
Wolverine: Unit 14(C)—No limit	Nov. 10–Feb. 28.

(15) *Unit 15.* (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet, and Turnagain Arm from Gore Point to the point where longitude line 150° 00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150° 00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15(A) consists of that portion of Unit 15 north of the north bank of the Kenai River and the north shore of Skilak Lake;

(B) Unit 15(B) consists of that portion of Unit 15 south of the north bank of the Kenai River and the north shore of Skilak Lake, and north of the north bank of the Kasilof River, the north shore of Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15(C) consists of the remainder of Unit 15.

(ii) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1–March 1 by bow and arrow only, in the Skilak Loop Management Area, which consists of that portion of Unit 15(A) bounded by a line beginning at the eastern most junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its western most junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area;

(C) You may not trap marten in that portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier;

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare.

Harvest limits	Open season
Hunting	
Black Bear:	
Unit 15(C)—3 bears	July 1–June 30.
Unit 15—remainder	No open season.
Moose:	
Unit 15(A)—Skilak Loop Wildlife Management Area	No open season.
Unit 15(A)—remainder, Unit 15(B), and (C)—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sept. 20.
Coyote:	
No limit	Sept. 1–Apr. 30.
Hare (Snowshoe):	
No limit	July 1–June 30.
Wolf:	
Unit 15—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 15—remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 Wolverine	Sept. 1–Mar. 31.
Grouse (Spruce):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15(A) and (B)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15(C)—20 per day, 40 in possession	Aug. 10–Dec. 31.
Unit 15(C)—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping	
Beaver:	
20 Beaver per season	Nov. 10–Mar. 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
Fox	Nov. 10–Feb. 28.
Marten:	
Unit 15(B)—that portion east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.

Harvest limits	Open season
Otter:	
Unit 15—No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
Unit 15(B) and (C)—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.* (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the west side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the west side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the south side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16(A) consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16(B) consists of the remainder of Unit 16.

(ii) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16(B)—Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 antlered bull	Sept. 1–Sept. 15.
Unit 16(B)—remainder—1 moose; however, antlerless moose may be taken only from Sept. 25–Sept. 30 and from Dec. 1–Feb. 28 by Federal registration permit only.	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Oct. 10–May 15.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(17) *Unit 17.* (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17(A) consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17(B) consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage, and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17(C) consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bears, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17(B), from Aug. 1–Nov. 1;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in the Western Alaska Brown Bear Management Area which consists of Units 9(B) except that portion within the Lake Clark National Park and Preserve, 17, 18, and those portions of 19(A) and (B) downstream of and including the Aniak River drainage, if you have obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) For Federal registration permit caribou hunts for Unit 17(A) and (C), that portion consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay, a Federally-qualified subsistence user may designate another Federally-qualified subsistence user to harvest caribou on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(C) If you have a trapping license, you may use a firearm to take beaver in Unit 17 from April 15–May 31. You may not take beaver with a firearm under a trapping license on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears	Aug. 1–May 31.
Brown Bear: Unit 17—1 bear by State registration permit only	Sept. 1–May 31.
Caribou:.	
Unit 17(A)—all drainages west of Right Hand Point—5 caribou; however, no more than 2 bulls may be taken from Oct. 1—Nov. 30. The season may be closed and harvest limit reduced for the drainages between the Togiak River and Right Hand Point by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Mar. 31.
Unit 17(A) and (C)—that portion of 17(A) and (C) consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—up to 2 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by the residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk during seasons identified above. The harvest objective, harvest limit, and the number of permits available will be announced by the Togiak National Wildlife Refuge Manager after consultation with the Alaska Department of Fish and Game and the Nushagak Peninsula Caribou Planning Committee. Successful hunters must report their harvest to the Togiak National Wildlife Refuge within 24 hours after returning from the field. The season may be closed by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Sept. 30. Dec. 1–Mar. 31.
Unit 17(B) and (C)—that portion of 17(C) east of the Wood River and Wood River Lakes—5 caribou; however, no more than 2 bulls may be taken from Oct. 1–Nov. 30.	Aug. 1–Apr. 15.
Unit 17(A)—remainder and 17(C)—remainder—selected drainages; a harvest limit of up to 5 caribou will be determined at the time the season is announced.	Season to occur between Aug. 1–Mar. 31, harvest limit, and hunt area to be announced by the Togiak National Wildlife Refuge Manager.
Sheep: 1 ram with full curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 17(A)—1 bull by State registration permit.	Aug. 25–Sept. 20.
Unit 17(B)—that portion that includes all the Mulchatna River drainage upstream from and including the Chilchitna River drainage—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15,
Unit 17(C)—that portion that includes the Iowithla drainage and Sunshine Valley and all lands west of Wood River and south of Aleknagik Lake—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Unit 17(B)—remainder and 17(C)—remainder—1 bull by State registration permit. During the period Sept. 1–Sept. 15, a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.

Harvest limits	Open season
Trapping	
Beaver:	
Unit 17—No limit	Oct. 10–Mar. 31.
—2 beaver per day. Only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: 2 muskrats	Nov. 10–Feb. 28.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(18) *Unit 18.* (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Kalskag Controlled Use Area which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag, you may not use aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in the Western Alaska Brown Bear Management Area which consists of Units 9(B) except that portion within the Lake Clark National Park and Preserve, 17, 18, and those portions of 19(A) and (B) downstream of and including the Aniak River drainage, if you have obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 18 from Apr. 1—Jun. 10;

(B) You may take caribou from a boat moving under power in Unit 18.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear by State registration permit only	Sept. 1–May 31.
Caribou:	
Unit 18—that portion south of the Yukon River—5 caribou . Edible meat must remain on the bones of the front quarters and hind quarters until the meat is removed from the field.	Aug. 1–Mar. 31.
Unit 18—that portion north of the Yukon River—5 caribou per day	Aug. 1–Mar. 31.
Moose:	
Unit 18—that portion north and west of a line from Cape Romanzof to Kuzilvak Mountain, and then to Mountain Village, and west of, but not including, the Andreafsky River drainage—1 antlered bull.	Sept. 5–Sept. 25.
Unit 18—south of and including the Kanektok River drainages	No open season.
Unit 18—Kuskokwim River drainage—1 antlered bull. A 10-day hunt to occur between Dec. 1 and Feb. 28 (1 bull, evidence of sex required) will be opened by announcement.	Aug. 25–Sept. 25. Winter season to be announced.
Unit 18—remainder—1 antlered bull. A 10-day hunt to occur between Dec. 1 and Feb. 28 (1 bull, evidence of sex required) will be opened by announcement.	Sept. 1–Sept. 30. Winter season to be announced.
Public lands in Unit 18 are closed to the hunting of moose, except by Federally-qualified rural Alaska residents during seasons identified above.	
Beaver: No limit	July 1–June 30.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Mar. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–May 30.
Trapping	
Beaver: No limit	July 1–June 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Mar. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 31.

(19) *Unit 19.* (i) Unit 19 consists of the Kuskokwim River drainage upstream from a straight line drawn between Lower Kalskag and Piamiut:

(A) Unit 19(A) consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19(B);

(B) Unit 19(B) consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19(C) consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwest corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage;

(D) Unit 19(D) consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) In the Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19(D) upstream from the mouth of Big River including the drainages of the Big River, Middle Fork, South Fork, East Fork, and Tonzona River, and bounded by a line following the west bank of the Swift Fork (McKinley Fork) of the Kuskokwim River to 152° 50' W. long., then north to the boundary of Denali National Preserve, then following the western boundary of Denali National Preserve north to its intersection with the Minchumina-Telida winter trail, then west to the crest of Telida Mountain, then north along the crest of Munsatli Ridge to elevation 1,610, then northwest to Dyckman Mountain and following the crest of the divide between the Kuskokwim River and the Nowitna drainage, and the divide between the Kuskokwim River and the Nixon Fork River to Loaf benchmark on Halfway Mountain, then south to the west side of Big River drainage, the point of beginning, you may not use aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area;

(C) You may hunt brown bear by State registration permit in lieu of a resident tag in the Western Alaska Brown Bear Management Area which consists of Units 9(B) except that portion within the Lake Clark National Park and Preserve, 17, 18, and those portions of 19(A) and (B) downstream of and including the Aniak River drainage, if you have obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30.

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 19(A) and (B)—those portions which are downstream of and including the Aniak River drainage—1 bear by State registration permit.	Sept. 1–May 31.
Unit 19(A)—remainder, 19(B)—remainder, and Unit 19(D)—1 bear	Sept. 1–May 31.
Caribou:	
Unit 19(A)—north of Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 19(A)—south of the Kuskokwim River and Unit 19(B) (excluding rural Alaska residents of Lime Village)—5 caribou.	Aug. 1–Apr. 15.
Unit 19(C)—1 caribou	Aug. 10–Oct. 10.
Unit 19(D)—south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Jan. 31.
Unit 19(D)—remainder—1 caribou	Aug. 10–Sept. 30.
Unit 19—rural Alaska residents domiciled in Lime Village only—no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1–Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep: 1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 19—Rural Alaska residents of Lime Village only—no individual harvest limit, but a village harvest quota of 40 moose (including those taken under the State Tier II system); either sex. Reporting will be by a community reporting system.	July 1–June 30.

Harvest limits	Open season
Unit 19(A)—that portion north of the Kuskokwim River upstream from, but not including, the Kolmakof River drainage and south of the Kuskokwim River upstream from, but not including, the Holokuk River drainage—1 bull.	Sept. 1–Sept. 20. Nov. 20–. Nov. 30. Jan. 1– Jan. 10. Feb. 1–Feb. 5.
Unit 19(A)—remainder—1 bull	Sept. 1–Sept. 20. Nov. 20–Nov. 30. Jan. 1–Jan. 10. Feb. 1–Feb. 10.
Unit 19(B)—1 antlered bull	Sept. 1–Sept. 30.
Unit 19(C)—1 antlered bull	Sept. 1–Sept. 20.
Unit 19(C)—1 bull by State registration permit	Jan. 15–Feb. 15.
Unit 19(D)—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sept. 1–Sept. 30.
Unit 19(D)—remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Unit 19(D)—remainder—1 antlered bull	Sept. 1–Sept. 30. Dec. 1–Dec. 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 19(D)—10 wolves per day	Aug. 10–Apr. 30.
Unit 19—remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–Jun. 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Mar. 31.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(20) *Unit 20.* (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages, and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20(A) consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River;

(B) Unit 20(B) consists of drainages into the north bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage;

(C) Unit 20(C) consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River;

(D) Unit 20(D) consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding the Banner Creek drainage;

(E) Unit 20(E) consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage;

(F) Unit 20(F) consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (m)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5–Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: A line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle bench mark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head

of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(D) You may not use any motorized vehicle for hunting from August 5–September 20 in the Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20(E) bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport;

(E) You may by permit only hunt moose on the Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River three miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning;

(F) You may hunt moose by bow and arrow only in the Fairbanks Management Area, which consists of that portion of Unit 20(B) bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to Isberg Road, then northeasterly on Isberg Road to Cripple Creek Road, then northeasterly on Cripple Creek Road to the Parks Highway, then north on the Parks Highway to Alder Creek, then westerly to the middle fork of Rosie Creek through section 26 to the Parks Highway, then east along the Parks Highway to Alder Creek, then upstream along Alder Creek to its confluence with Emma Creek, then upstream along Emma Creek to its headwaters, then northerly along the hydrographic divide between Goldstream Creek drainages and Cripple Creek drainages to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to Sheep Creek Road, then north on Sheep Creek Road to Murphy Dome Road, then west on Murphy Dome Road to Old Murphy Dome Road, then east on Old Murphy Dome Road to the Elliot Highway, then south on the Elliot Highway to Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, Davidson Ditch, then southeasterly along the Davidson Ditch to its confluence with the tributary to Goldstream Creek in Section 29, then downstream along the tributary to its confluence with Goldstream Creek, then in a straight line to First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its confluence with Ruby Creek, then upstream along Ruby Creek to Esro Road, then south on Esro Road to Chena Hot Springs Road, then east on Chena Hot Springs Road to Nordale Road, then south on Nordale Road to the Chena River, to its intersection with the Trans_Alaska Pipeline right of way, then southeasterly along the easterly edge of the Trans_Alaska Pipeline right of way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along the Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may not use a steel trap, or a snare using cable smaller than 3/32 inch diameter to trap coyotes or wolves in Unit 20(E) during April and October;

(C) Residents of Unit 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 20(E)—1 bear	Aug. 10–June 30.
Unit 20—remainder—1 bear every four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 20(E)—1 caribou by joint State/Federal registration permit only. Up to 900 caribou may be taken under a State/Federal harvest quota. During the winter season, area closures or hunt restrictions may be announced when Nelchina caribou are present in a mix of more than 1 Nelchina caribou to 15 Fortymile caribou, except when the number of caribou present is low enough that less than 50 Nelchina caribou will be harvested regardless of the mixing ratio for the two herds. The season closures will be announced by the Northern Field Office Manager, Bureau of Land Management, after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30 Nov. 1–Feb. 28.
Unit 20(F)—north of the Yukon River—1 caribou	Aug. 10–Mar. 31.

Harvest limits	Open season
Unit 20(F)—east of the Dalton Highway and south of the Yukon River—1 caribou. However, during the November 1–March 31 season a State registration permit is required.	Aug. 10–Sept. 20 Nov. 1–Mar. 31.
Moose:	
Unit 20(A)—1 antlered bull	Sept. 1–Sept. 20.
Unit 20(B)—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sept. 1–Sept. 20 Jan. 10–Feb. 28.
Unit 20(B)—remainder—1 antlered bull	Sept. 1–Sept. 20.
Unit 20(C)—that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30 Nov. 15–Dec. 15.
Unit 20(C)—remainder—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30.
Unit 20(E)—that portion within Yukon Charley National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 20(E)—that portion drained by the Forty-mile River (all forks) from Mile 9½ to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 bull.	Aug. 24–Aug. 28. Sept. 1–Sept. 15.
Unit 20(F)—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sept. 1–Sept. 25.
Unit 20(F)—remainder—1 antlered bull	Sept. 1–Sept. 25. Dec. 1–Dec. 10.
Beaver: Unit 20(E)—Yukon-Charley Rivers National Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sept. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30
Lynx:	
Unit 20(E)—2 lynx	Nov. 1–Jan. 31.
Unit 20—remainder—2 lynx	Dec. 1–Jan. 31.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):.	
Unit 20(D)—that portion south of the Tanana River and west of the Johnson River—15 per day, 30 in possession, provided that not more than 5 per day and 10 in possession are sharp-tailed grouse.	Aug. 25–Mar. 31.
Unit 20—remainder—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock and Willow):	
Unit 20—those portions within five miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Units 20(A), 20(B), Unit 20(C), and 20(F)—No limit	Nov. 1–Apr. 15.
Unit 20(D)	Nov. 1–Apr. 15.
Unit 20(E)—25 beaver per season. Only firearms may be used during Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1—Apr. 15. The total annual harvest limit for beaver is 25, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption..	Sept. 20–May 15.
Coyote:	
Unit 20(E)—No limit	Oct. 15–Apr. 30.
Remainder Unit 20—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 20(A), (B), (D), and (C) east of the Teklanika River—No limit.	Dec. 1–Jan. 31.
Unit 20(E)—No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30	Nov. 1–Jan. 31.
Unit 20(F) and the remainder of 20(C)—No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat:	
Unit 20(E)—No limit	Sept. 20–June 10.
Unit 20—remainder—No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf:	
Unit 20(A, B, C, & F)—No limit	Nov. 1–Apr. 30.
Unit 20(D)—No limit	Oct. 15–Apr. 30.
Unit 20(E)—No limit	Oct. 1–Apr. 30
Wolverine: No limit	Nov. 1–Feb. 28.

(21) *Unit 21.* (i) Unit 21 consists of drainages into the Yukon River upstream from Paimiut to, but not including the Tozitna River drainage on the north bank, and to, but not including the Tanana River drainage on

the south bank; and excluding the Koyukuk River drainage upstream from the Dulbi River drainage:

(A) Unit 21(A) consists of the Innoko River drainage upstream from and including the Iditarod River drainage, and the Nowitna River drainage upstream from the Little Mud River;

(B) Unit 21(B) consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Nowitna River drainage upstream from the Little Mud River, and excluding the Melozitna River drainage upstream from Grayling Creek;

(C) Unit 21(C) consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage;

(D) Unit 21(D) consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek;

(E) Unit 21(E) consists of the Yukon River drainage from Paimiut upstream to, but not including the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57′ N. lat., 156° 41′ W. long.), then easterly to the lower forks of the Dakli River, then easterly to the confluence of McLanes Creek and the Hogatza River, then easterly to the middle of the Hughes airstrip, then south to Little Indian River, then southwest to the mouth of Cottonwood Creek then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 21(D), Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A), if you have obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25;

(B) You may use a firearm to take beaver in Unit 21(E) from Nov. 1–June 10;

(C) The residents of Unit 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State;

(D) The residents of Unit 21 may take up to three moose per regulatory year for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 21(D)—1 bear by State registration permit only	Sept. 1–June 15.
Unit 21—remainder—1 bear every four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 21(A)—1 caribou	Aug. 10–Sept. 30. Dec. 10–Dec. 20.
Unit 21(B), (C), and (E)—1 caribou	Aug. 10–Sept. 30.
Unit 21(D)—north of the Yukon River and east of the Koyukuk	Aug. 10–Sept. 30.
River 1 caribou; however, 2 additional caribou may be taken during a winter season to be announced	Winter season to be announced.
Unit 21(D)—remainder—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.

Harvest limits	Open season
Moose:	
Unit 21(A)—1 bull	Aug. 20–Sept. 25 Nov. 1–Nov. 30.
Unit 21(B) and (C)—1 antlered bull	Sept. 5–Sept. 25.
Unit 21(D)—Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only during Aug. 27–31 and the February season. During the Aug. 27–Sept. 20 season a State registration permit is required. Moose may not be taken within one-half mile of the mainstem Yukon River during the February season. A 10-day winter hunt to occur between Feb. 1 and Feb. 28 will be opened by announcement of the Koyukuk/Nowitna National Wildlife Refuge Manager after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon Fish and Game Advisory Committee.	Aug. 27–Sept. 20. Winter season to be announced.
Unit 21(D)—remainder—1 moose; however, antlerless moose may be taken only during Sept. 21–25 and the February season. Moose may not be taken within one-half mile of the mainstem Yukon River during the February season. A 10-day winter hunt to occur between Feb. 1 and Feb. 28 will be opened by announcement of the Koyukuk/Nowitna National Wildlife Refuge Manager after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon Fish and Game Advisory Committee.	Sept. 5–Sept. 25. Winter season to be announced.
Unit 21(E)—1 moose; however, only bulls may be taken from Aug. 20–Sept. 25; moose may not be taken within one-half mile of the Innoko or Yukon River during the February season.	Aug. 20–Sept. 25. Feb. 1–Feb. 10.
Beaver:	
Unit 21(E)—No Limit	Nov. 1–June 10.
Unit 21—remainder	No open season.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No Limit	Nov. 1–June 10.
Coyote:.	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):.	
No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(22) *Unit 22.* (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22(A) consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands;

(B) Unit 22(B) consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage;

(C) Unit 22(C) consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands;

(D) Unit 22(D) consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York, and St. Lawrence Island;

(E) Unit 22(E) consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A), if you have obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 22 during the established seasons;

(B) Coyote, incidentally taken with a trap or snare intended for red fox or wolf, may be used for subsistence purposes;

(C) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine;

(D) The taking of one bull moose and one muskox by the community of Wales is allowed for the celebration of the Kingikmiut Dance Festival under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Wales. The harvest may only occur between November 15 and December 31 in Unit 22 for moose and in Unit 22(E) for muskox. The harvest will count against any established quota for the area.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 22(A), (B), (D), and (E)—1 bear by State registration permit only	Aug. 1–May 31.
Unit 22(C)—1 bear by State registration permit only	Aug. 1–Oct. 31. May 10–May 25.
Caribou: Unit 22(A), (B), (D) that portion in the Kougaruk, Kuzitrin, Pilgrim, American, and Agiapuk River Drainages, and (E) east of and including the Sanaguich River drainage–5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 22(A)—1 bull; however, the period of Dec. 1–Jan. 31 is closed to hunting except by residents of Unit 22(A) only.	Aug. 1–Sept. 30. Dec. 1–Jan. 31.
Unit 22(B)—West of the Darby Mountains–1 bull by State registration permit. The combined State/Federal harvest may not exceed 42 moose. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users.	Aug. 10–Sept. 23.
Unit 22(B)—West of the Darby Mountains—1 bull by either Federal or State registration permit. The total combined State/Federal harvest for both the Aug/Sept and January seasons may not exceed 48 moose. Federal public lands are closed to the taking of moose except by residents of White Mountain and Golovin.	Jan. 1–Jan. 31.
Unit 22(B)—Remainder—1 bull	Aug. 1–Jan.31.
Unit 22(C)—1 antlered bull	Sept. 1–Sept. 14.
Unit 22(D)—That portion within the Kougarok, Kuzitrin, and Pilgrim River drainages—1 bull by Federal registration permit. The combined State/Federal harvest may not exceed 33 moose. Federal public lands are closed to the taking of moose except by residents of Units 22(D) and 22(C).	Aug. 20–Sept. 30.
Unit 22(D)—That portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. The combined State/Federal harvest may not exceed 8 moose.	Aug. 20–Sept. 30.
Unit 22(D)—That portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. The combined State/Federal harvest in Aug./Sept. and Dec. may not exceed 8 moose. Federal public lands are closed to the taking of moose except by residents of Units 22(D) and 22(C).	Dec. 1–Dec. 31.
Unit 22(D)—remainder—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users.	Aug. 1–Jan. 31.
Unit 22(E)—1 bull. Federal public lands are closed to the taking of moose except by Federally-qualified subsistence users.	Aug. 1–Dec. 31.
Muskox:	
Unit 22(B)—1 bull by Federal permit or State Tier II permit. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug.1–Mar. 15.
Unit 22(D)—That portion west of the Tisuk River drainage and Canyon Creek—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Sept.1–Mar. 15.
Remainder of Unit 22(D)—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 22(E)—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug.1–Mar. 15.
Unit 22—remainder	No open season.
Beaver:	
Unit 22(A), (B), (D), and (E)—50 beaver	Nov. 1–June 10.
Unit 22—remainder	No open season.
Coyote: Federal public lands are closed to the taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit	Sept. 1–Apr. 15.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Marten:	
Unit 22(A) 22(B)—No limit	Nov. 1–Apr. 15.
Unit 22—remainder	No open season.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 15.
Wolverine: 3 wolverine	Sept. 1–Mar. 31.

Harvest limits	Open season
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 22(A) and 22(B) east of and including the Niukluk River drainage–40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22 (E)—20 per day, 40 in possession	July 15–May 15.
Unit 22 Remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 22(A), (B), (D), and (E)—50 beaver	Nov. 1–June 10.
Unit 22(C)	No open season.
Coyote: Federal public lands are closed to the taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(23) *Unit 23*. (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in the Noatak Controlled Use Area, which consists of that portion of Unit 23 in a corridor extending five miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek, is closed for the period August 25–September 15. This does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A); if you have obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 23;

(B) In addition to other restrictions on method of take found in this § __.26, you may also take swimming caribou with a firearm using rimfire cartridges;

(C) If you have a trapping license, you may take beaver with a firearm in all of Unit 23 from Nov. 1–Jun. 10;

(D) For the Baird and DeLong Mountain sheep hunts—A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears.	July 1–June 30.
Brown Bear:	
Unit 23—except the Baldwin Peninsula north of the Arctic Circle—1 bear by State registration permit.	Sept. 1–May 31.
Unit 23—remainder—1 bear every four regulatory years	Sept. 1–Oct. 10. Apr. 15–May 25.
Caribou: 15 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	

Harvest limits	Open season
Unit 23—south of Rabbit Creek, Kyak Creek, and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 ram with full curl or larger horns by Federal registration permit. The hunter must deliver the horns attached to the skull to the National Park Service or NPS representative within 30 days of harvesting the animal. The NPS or NPS representative will destroy the trophy value by removing and destroying four inches from the base of one horn. The Superintendent of the Western Arctic National Parklands will announce the fall/winter harvest quota, if any, prior to the the fall season. All harvest quota and season announcements will be done in consultation with ADF&G and BLM. Federal public lands are closed to the taking of sheep except by Federally-qualified subsistence users.	(a) Aug. 1–Sept. 30. The season will be closed when half of the total fall/winter quota has been harvested. (b) Dates of the winter season to be announced by Superintendent of the Western Arctic National Parklands. The season will be closed on April 1 or when the total quota of sheep has been harvested, whichever comes first.
Unit 23—north of Rabbit Creek, Kyak Creek, and the Noatak River, and west of the Aniuk River (DeLong Mountains)—1 ram with full curl or larger horns by Federal registration permit. The hunter must deliver the horns attached to the skull to the National Park Service or NPS representative within 30 days of harvesting the animal. The NPS or NPS representative will destroy the trophy value by removing and destroying 4 inches from the base of one horn. The Superintendent of the Western Arctic National Parklands will announce the fall/winter harvest quota, if any, prior to the fall season. All harvest quota and season announcements will be done in consultation with ADF&G and BLM.	(a) Aug. 1–Sept. 30. The season will be closed when half of the total fall/winter quota has been harvested in the DeLong Mountains. (b) Dates of the winter season to be announced by Superintendent of the Western Arctic National Parklands. The season will be closed in the DeLong Mountains on April 1 or when the total quota of sheep has been harvested, whichever comes first.
Unit 23—remainder (Schwatka Mountains)—1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Unit 23—remainder (Schwatka Mountains)—1 sheep	Oct. 1–Apr. 30.
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 moose; no person may take a cow accompanied by a calf.	July 1–Mar. 31.
Unit 23—that portion lying within the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Nov. 1–Mar. 31; no person may take a cow accompanied by a calf.	Aug. 1–Sept. 15. Oct. 1–Mar. 31.
Unit 23—remainder—1 moose; no person may take a cow accompanied by a calf	Aug. 1–Mar. 31.
Muskox:	
Unit 23—south of Kotzebue Sound and west of and including the Buckland River drainage—1 muskox by Federal permit or State Tier II permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 23—remainder	No open season.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):.	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare: (Snowshoe and Tundra).	
No limit	July 1–June 30.
Lynx:.	
2 lynx	Nov. 1–Apr. 15.
Wolf:.	
5 wolves	Nov. 10–Mar. 31.
Wolverine:.	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed):.	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):.	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	July 1–June 30.
Unit 23—remainder—30 beaver	July 1–June 30.
Coyote: No limit	Nov. 1–Apr. 15
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(24) *Unit 24.* (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area;

(C) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57′ N. lat., 156° 41′ W. long.), then easterly to the lower forks of the Dakli River, then easterly to the confluence of McLanes Creek and the Hogatza River, then easterly to the middle of the Hughes airstrip, then south to Little Indian River, then southwest to the mouth of Cottonwood Creek then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(D) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A), if you have obtained a State registration permit prior to hunting. You may not use aircraft in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25;

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 24—1 bear by State registration permit	Sept. 1–June 15.
Caribou:	
Unit 24—that portion south of the south bank of the Kanuti River, upstream from and including that portion of the Kanuti-Kilolitna River drainage, bounded by the southeast bank of the Kodosin-Nolitna Creek, then downstream along the east bank of the Kanuti-Kilolitna River to its confluence with the Kanuti River—1 caribou.	Aug. 10–Mar. 31.
Remainder of Unit 24—5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Sheep:	
Unit 24—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 24—(excluding Anaktuvuk Pass residents)—that portion within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 ram with 7/8 curl horn or larger by Federal registration permit only.	Aug. 10–Sept. 20.
Unit 24—remainder—1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 24—that portion within the Koyukuk Controlled Use Area—1 moose; however, antlerless moose may only be taken during the periods of Aug. 27–31, Dec. 1–Dec. 10, and Mar. 1–Mar. 10. During Aug. 27–Sept. 20, a State registration permit is required.	Aug. 27– Sept. 20. Dec. 1–Dec. 10. Mar. 1–Mar. 10.
Unit 24—that portion that includes the John River drainage within the Gates of the Arctic National Park—1 moose.	Aug. 1–Dec. 31.
Unit 24—the Alatna River drainage within the Gates of the Arctic National Park—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Mar. 1–Mar. 10.	Aug. 25–Dec. 31. Mar. 1–Mar. 10.

Harvest limits	Open season
Unit 24—all drainages to the north of the Koyukuk River upstream from and including the Alatna River to and including the North Fork of the Koyukuk River, except those portions of the John River and the Alatna River drainages within the Gates of the Arctic National Park 1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Mar. 1–Mar. 10.	Aug. 25–Sept. 25. Mar. 1–Mar. 10.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 antlered bull by Federal registration permit only.	Aug. 25–Sept. 25.
Unit 24—remainder—1 antlered bull. Public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by eligible rural Alaska residents.	Aug. 25–Sept. 25.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 15 wolves; however, no more than 5 wolves may be taken prior to Nov. 1	Aug. 10–Apr. 30.
Wolverine: 5 wolverine; however, no more than 1 wolverine may be taken prior to Nov. 1	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(25) *Unit 25.* (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25(A) consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage;

(B) Unit 25(B) consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River;

(C) Unit 25(C) consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20(E) boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage;

(D) Unit 25(D) consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(B) The Arctic Village Sheep Management Area consists of that portion of Unit 25(A) north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into 2 roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the head waters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30 and between August 1 and September 25;

(B) You may take caribou and moose from a boat moving under power in Unit 25;

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25(D) west provided that:

(*1*) The person organizing the religious ceremony or cultural event

contact the Refuge Manager, Yukon Flats National Wildlife Refuge prior to taking or attempting to take bull moose and provide to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, the general area in which the taking will occur;

(*2*) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s);

(*3*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in Unit 25(D) west;

(*4*) Any moose taken under this provision counts against the annual quota of 60 bulls.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
or 3 bears by State community harvest permit	July 1–June 30.
Brown Bear:	
Unit 25(A) and (B)—1 bear	Sept. 1–June 15.
Unit 25(C)—1 bear	Sept. 1–May 31.
Unit 25(D)—1 bear	July 1–June 30.
Caribou:	
Unit 25(C)—that portion west of the east bank of the mainstem of Preacher Creek to its confluence with American Creek, then west of the east bank of American Creek—1 caribou; however cow caribou may be taken only from Nov. 1–Mar. 31. However, during the November 1–March 31 season, a State registration permit is required.	Aug. 10–Sept. 20. Nov. 1–Mar. 31.
25(C)—remainder—1 caribou by joint State/Federal registration permit only. Up to 600 caribou may be taken under a State/Federal harvest quota. The season closures will be announced by the Northern Field Office Manager, Bureau of Land Management, after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 25 (D)—that portion of Unit 25(D) drained by the west fork of the Dall River west of 150° W. long.—1 bull	Aug. 10–Sept. 30. Dec. 1–Dec. 31.
Unit 25(A), (B), and the remainder of Unit 25(D)—10 caribou	July 1–Apr. 30.
Sheep:	
Unit 25(A)—that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25(A)—Arctic Village Sheep Management Area—2 rams by Federal registration permit only. Public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik, and Chalkytsik during seasons identified above.	Aug. 10–Apr. 30.
Unit 25(A)—remainder—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Moose:	
Unit 25(A)—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 10.
Unit 25(B)—that portion within Yukon Charley National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 25(B)—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Sept. 30. Dec. 1–Dec. 10.
Unit 25(B)—that portion, other than Yukon Charley National Preserve, draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sept. 5–Sept. 30. Dec. 1–Dec. 15.
Unit 25(B)—remainder—1 antlered bull	Aug. 25–Sept. 15. Dec. 1–Dec. 15.
Unit 25(C)—1 antlered bull	Sept. 1–Sept. 15.
Unit 25(D)(West)—that portion lying west of a line extending from the Unit 25(D) boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek and Lower Mouth Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzik River, then upstream along the west bank of the Hadweenzik River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25(D) boundary—1 bull by a Federal registration permit. Permits will be available in the following villages: Beaver (25 permits), Birch Creek (10 permits), and Stevens Village (25 permits). Permits for residents of 25(D)(West) who do not live in one of the three villages will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician. Moose hunting on public land in Unit 25(D)(West) is closed at all times except for residents of Unit 25(D)(West) during seasons identified above. The moose season will be closed when 60 moose have been harvested in the entirety (from Federal and non-Federal lands) of Unit 25(D)(West).	Aug. 25–Feb. 28.
Unit 25(D)—remainder—1 antlered moose	Aug. 25–Sept. 25. Dec. 1–Dec. 20.
Beaver:	
Unit 25, excluding Unit 25(C)—1 beaver per day; 1 in possession	Apr. 16–Oct. 31.
Unit 25(C)	No Federal open season.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx:	
Unit 25(C)—2 lynx	Dec. 1–Jan. 31.
Unit 25—remainder—2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 25(A)—No limit	Aug. 10–Apr. 30.

Harvest limits	Open season
Remainder of Unit 25—10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
Unit 25(C)—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 25—remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 25(C)—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 25(C)—No limit	Nov. 1–Apr. 15.
Unit 25—remainder—50 beaver	Nov. 1–Apr. 15.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine:	
Unit 25(C)—No limit	Nov. 1–Feb. 28.
Unit 25—remainder—No limit	Nov. 1–Mar. 31.

(26) *Unit 26*. (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border including the Firth River drainage within Alaska:

(A) Unit 26(A) consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26(B) consists of that portion of Unit 26 east of Unit 26(A), west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26(C) consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose from Aug. 1–Sept. 14 and from Jan. 1–Mar. 31 in Unit 26(A); however, this does not apply to transportation of moose hunters, their gear, or moose parts by aircraft between publicly owned airports;

(B) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(C) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A), if you have obtained a State registration permit prior to hunting. You may not use aircraft in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 26;

(B) In addition to other restrictions on method of take found in this § __.26, you may also take swimming caribou with a firearm using rimfire cartridges;

(C) In Kaktovik, a Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep or muskox on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(D) For the DeLong Mountain sheep hunts—A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.

Harvest limits	Open season
Brown Bear:	
Unit 26(A)—1 bear by State registration permit	Sept. 1–May 31.
Unit 26(B) and (C)—1 bear	Sept. 1–May 31.
Caribou:	
Unit 26(A)—10 caribou per day; however, cow caribou may not be taken May 16–June 30. Federal lands south of the Colville River and east of the Killik River are closed to the taking of caribou by non-Federally qualified subsistence users from Aug. 1–Sept. 30.	July 1–June 30.
Unit 26(B)—10 caribou per day; however, cow caribou may be taken only from Oct. 1–Apr. 30	July 1–Apr. 30.
Unit 26(C)—10 caribou per day	July 1–Apr. 30.
(You may not transport more than 5 caribou per regulatory year from Unit 26 except to the community of Anaktuvuk Pass).	
Sheep:	
Unit 26(A) and (B)—(Anaktuvuk Pass residents July 15–Dec. only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 26(A)—(excluding Anaktuvuk Pass residents)—those portions within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 26(A)—that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 ram with full curl or larger horns by Federal registration permit. The hunter must deliver the horns attached to the skull to the National Park Service or NPS representative within 30 days of harvesting the animal. The NPS or NPS representative will destroy the trophy value by removing and destroying 4 inches from the base of one horn. The Superintendent of the Western Arctic National Parklands will announce the fall/winter harvest quota, if any, prior to the fall season. All harvest quota and season announcements will be done in consultation with ADF&G and BLM.	(a) Aug. 1–Sept. 30. The season will be closed when half of the total fall/winter quota has been harvest in the DeLong Mountains. (b) Dates of the winter season to be announced by the Superintendent of the Western Arctic National Parklands. The season will be closed in the DeLong Mountains on April 1 or when the total quota of sheep has been harvested, whichever comes first.
Unit 26(B)—that portion within the Dalton Highway Cooridor Management Area—1 ram with 7/8 curl horn or larger by Federal registration permit only.	Aug. 10–Sept. 20.
Unit 26(A)—remainder and 26(b)—remainder—including the Gates of the Arctic National Preserve—1 ram with 7/8 curl horn or larger.	Aug. 10–Sept. 20.
Unit 26(C)—3 sheep per regulatory year; the Aug. 10–Sept. 20 season is restricted to 1 ram with 7/8 curl horn or larger. A Federal registration permit is required for the Oct. 1–Apr. 30 season.	Aug. 10–Sept. 20. Aug. 10–Apr. 20. Oct. 1–Apr. 30.
Moose:	
Unit 26(A)—that portion of the Colville River drainage downstream from and including the Chandler River—1 bull. Federal public lands are closed to the taking of moose except by Federally qualified users.	Aug. 1–Sept. 14.
Unit 26(A)—remainder—1 bull	Sept. 1–Sept. 14.
Unit 26—remainder	No open season.
Muskox: Unit 26(C)—1 bull by Federal registration permit only. The number of permits that may be issued only to the residents of the village of Kaktovik will not exceed three percent (3%) of the number of muskoxen counted in Unit 26(C) during a pre-calving census. Public lands are closed to the taking of muskox, except by rural Alaska residents of the village of Kaktovik during open seasons.	July 15–Mar. 31.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes.	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 26(A) and (B)—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Unit 26(C)—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit.	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Aug. 10–Apr. 30.
Wolverine: 5 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.

Harvest limits	Open season
Wolverine: No limit	Nov. 1–Apr. 15.

Dated: May 29, 2003.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: May 29, 2003.

Kenneth E. Thompson,

Subsistence Program Manager, USDA—-Forest Service.

[FR Doc. 03–15728 Filed 6–26–03; 8:45 am]

BILLING CODES 3410–11–P, 4310–55–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Seasonal Adjustments—Copper River and Afognak Bay

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Seasonal adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's in-season management action in the Copper River to provide for a subsistence harvest opportunity. This also provides notice of a closure of the Federal subsistence salmon fisheries in Afognak Bay. These actions provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on February 12, 2003. Those regulations established seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2003 regulatory year.

DATES: The Chitina Subdistrict of the Upper Copper River District action is effective June 4, 2003 through September 30, 2003. The Afognak Bay closure is effective June 7, 2003, through August 7, 2003.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. The Departments administer Title VIII through regulations at Title 50, part 100 and Title 36, part 242 of the Code of Federal Regulations (CFR). Consistent with Subparts A, B, and C of these regulations, as revised January 8, 1999, (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Regional Director, Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for subparts A, B, and C, which establish the program structure and determine which Alaska residents are eligible to take specific species for subsistence uses, and the annual subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for the 2003 fishing seasons, harvest limits, and methods and means were published on February 12, 2003, (68 FR 7276).

Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Fisheries (BOF), manages sport, commercial, personal use, and State subsistence harvest on all lands and waters throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

These adjustments are necessary because of the need to maintain the viability of salmon stocks in Afognak Bay based on in-season run assessments and to provide opportunity for subsistence harvest in the Copper River. These actions are authorized and in accordance with 50 CFR 100.19(d–e) and 36 CFR 242.19(d–e).

Copper River—Chitina Subdistrict

In December 2001, the Board adopted regulatory proposals establishing a new Federal subsistence fishery in the Chitina Subdistrict of the Copper River. This fishery is open to Federally qualified users having customary and traditional use of salmon in this Subdistrict. The State conducts a personal use fishery in this Subdistrict that is open to all Alaska residents.

Management of the fishery is based on the numbers of salmon returning to the Copper River. A larger than predicted salmon run will allow additional fishing time. A smaller than predicted run will require restrictions to achieve upriver passage and spawning escapement goals. A run that approximates the pre-season forecast will allow fishing to proceed similar to the pre-season schedule with some adjustments made to fishing time based on in-season data. Adjustments to the preseason schedule are expected as a normal function of an abundance-based management strategy. State and Federal managers, reviewing and discussing all available in-season information, will make these adjustments.

While Federal and State regulations currently differ for this Subdistrict, the Board indicated that Federal in-season management actions regarding fishing periods were expected to mirror State actions. The State established a preseason schedule of allowable fishing periods based on daily projected sonar estimates. That preseason schedule is intended to distribute the harvest throughout the salmon run and provide salmon for upriver subsistence fisheries and the spawning escapement. The Board initially closed the salmon season until the first open period scheduled for June 7, 2003, at 8 a.m. through Sunday, June 8, at 8 p.m. A much larger than anticipated run has allowed the Board to open the run to continuous harvest through the remainder of the season.

State personal use and Federal subsistence fisheries in this Subdistrict close simultaneously by regulation on September 30, 2003. No deviation from this date is anticipated.

Afognak Bay

The 2003 return of sockeye salmon to the Afognak River drainage is one of the lowest observed since 1986. Current weir counts and run timing allow managers to project that the total escapement may be substantially below the minimum escapement goal of 40,000 fish. In response to this poor return at this time, the Alaska Department of Fish and Game (ADF&G) has closed the State sport, commercial, and subsistence fisheries targeting sockeye salmon within Afognak Bay waters. After consultation with subsistence users and ADF&G managers, closure of the Federal subsistence seine and gill net fishery for salmon within the Afognak Bay waters of the Alaska Maritime National Wildlife Refuge is the responsible course of action as all remaining sockeye salmon entering Afognak Bay are required to achieve spawning escapement goals. Subsistence fishing with rod and reel for all species except sockeye salmon continues to be permitted. This closure action is taken to ensure the conservation of the Afognak River sockeye salmon stock.

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for these adjustments are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest.

Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive additional public notice and comment procedures prior to implementation of these actions and pursuant to 5 U.S.C. 553(d)(3) to make this rule effective as indicated in the **DATES** section.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Final Environmental Impact Statement (FEIS) was published on February 28, 1992, and a Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD) was signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999 (64 FR 1276).

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

The adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

The adjustments have been exempted from OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as boat, fishing gear, and gasoline dealers. The number of small entities affected is unknown; but, the effects will be seasonally and geographically-limited in nature and will likely not be significant. The Departments certify that the adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the adjustments will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that the adjustments meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

In accordance with Executive Order 13132, the adjustments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal

lands. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

Drafting Information

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Dennis Tol, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: June 12, 2003.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: June 12, 2003.

Kenneth E. Thompson,

Subsistence Program Leader, USDA—Forest Service.

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Federal Register

Friday,
June 27, 2003

Part IV

Environmental Protection Agency

40 CFR Parts 70 and 71

State and Federal Operating Permits Program: Amendments to Compliance Certification Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 70 and 71

[AL–FRL–7519–5]

RIN 2060–AK11

State and Federal Operating Permits Program: Amendments to Compliance Certification Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action on a March 2001 proposal to amend the State Operating Permits Program and the Federal Operating Permits Program. The amendments respond to a decision of the United States Court of Appeals for the District of Columbia Circuit (October 29, 1999) remanding to us those revisions to the compliance certification requirements that accompanied promulgation of the compliance assurance monitoring (CAM) rule (October 22, 1997) and that tailored the ongoing compliance certification content to the monitoring imposed by CAM. In particular, the Court ruled that the compliance certification must include whether the facility or source has been in continuous or intermittent compliance. We are removing the language in the 1997 revisions that addressed this requirement implicitly and replacing it with an express requirement tracking the statute.

EFFECTIVE DATE: The final rule amending parts 70 and 71 announced herein is effective on June 27, 2003.

ADDRESSES: We are not seeking comments on this final rule. A public version of the record for this action is available for public inspection in person and electronically. See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Grecia Castro, U.S. Environmental Protection Agency, Office Air Quality Planning and Standards, at (919) 541–1351. Facsimile: (919) 541–5509. e-mail: *castro.grecia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Regulated Entities

These regulations may apply to you if you own or operate any facility subject to the compliance certification requirements of part 70 or 71. These regulations apply to, but are not limited to, owners or operators of all sources who must have operating permits under either of these programs. State, local, and tribal governments that are implementing the part 70 and 71 operating permits program are potentially affected to the extent that those governments must revise existing compliance certification requirements to make them consistent with these revisions.

B. How Can I Get Copies of Related Information?

1. Docket

The EPA has established an official public docket for this action under Docket Number OAR–2002–0062. 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 or other information whose disclosure is restricted by statute. The official public docket for this action is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1742, and the telephone number for the Air and Radiation Docket is (202) 566–1742. The Docket Office may charge a reasonable fee for copying docket materials.

2. Electronic Access

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

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I. Authority

The statutory authority for this final rule is provided by sections 114 and 501 through 507 of the Clean Air Act (CAA or the Act or the Statute), as amended (42 U.S.C. 7414a and 7661–7661f).

II. Background

A. Regulatory and Litigation Background

On October 22, 1997 (62 FR 54900), we promulgated part 64, the CAM rule, and revisions to parts 70 and 71, the State and Federal Operating Permits Programs. In particular, the 1997 revisions to parts 70 and 71 revised the rule language requiring responsible officials to indicate in the annual compliance certification whether the source's compliance certification was continuous or intermittent and replaced it with a requirement to indicate whether the certification was based on methods that provide continuous or intermittent data and whether deviations, excursions, or exceedances occurred. Subsequently, the Natural Resources Defense Council, Inc. (NRDC) and the Appalachian Power Company *et al.* (Industry) filed petitions with the United States Court of Appeals for the District of Columbia Circuit (Court) challenging several aspects of the parts 70 and 71 revisions. Among other issues, NRDC argued that the part 70 and 71 revisions were inconsistent with the Act's explicit requirement in section 114(a)(3) that compliance certifications identify whether compliance is

continuous or intermittent. On October 29, 1999, the Court issued a decision (see docket A–91–52, item VIII–A–1) *Natural Resources Defense Council* v. *EPA,* 194 F.3d 130 (D.C. Cir. 1999), on these challenges. The Court agreed with NRDC that EPA's removal from parts 70 and 71 of the explicit requirement that compliance certifications address whether compliance is continuous or intermittent revisions was contrary to the Statute. See section 114(a)(3)(D), 42 U.S.C. 7414(a)(3)(D). The Court wrote: ''While [section] 114(a)(3) clearly states that a major source's ''compliance certification shall include * * * whether compliance is continuous or intermittent[,]'' EPA only requires that a major source's compliance certification include ''[t]he identification of the method(s) * * * used by the owner for determining the compliance status * * * and whether such methods * * * provide continuous or intermittent data'' (40 CFR 70.6(c)(5)(iii)(B), 71.6(c)(5)(iii)(B)). The statute requires that certification include whether ''compliance''—not just ''data''—is continuous or intermittent'' (194 F.3d at 137). The Court thus remanded the regulations to EPA for the Agency to revise them in accordance with the Court's opinion (Id. at 138). In response to the Court's remand, we issued a direct final rule for ''Amendments to Part 70 and Part 71 Compliance Certification Requirements.'' These revisions to parts 70 and 71 inserted language into sections 70.6(c)(5)(iii)(C) and 71.6(c)(5)(iii)(C) to require that the responsible official for each subject facility include in the annual (or more frequent) compliance certification whether compliance during the period was continuous or intermittent. The original direct final rule notice, published March 1, 2001 (66 FR 12872), was accompanied by a proposal with the same revisions. In the March 1 notice, we indicated that we would withdraw the direct final rule if we received adverse comments and would respond to any adverse comments on the direct final rule as comments on the proposal. We subsequently received adverse comments on the direct final rule; however, through an inadvertent administrative error, we did not publish the withdrawal prior to the rule's April 30 effective date. To correct this oversight, we issued an amendment notice withdrawing the direct final rule, effective on November 5, 2001 (66 FR 55883).

B. Summary of Issues Raised by the Proposal

We received five letters from commenters, three of which were from industry groups, one from an environmental interest group and one from a local permitting agency. All comments are discussed in detail in the response to comments document that is part of the docket documents; those that are pertinent to the March 1, 2001, proposal are summarized below.

On the whole, the primary issue raised by the commenters on the March 1, 2001, proposal for this final rule is that neither the proposed rule nor the preamble provides clear guidance for responsible officials to know how to comply with the requirement to certify whether compliance with the permit terms and conditions was continuous or intermittent. Neither does the proposed rule or the preamble enable regulatory authorities and the public to understand the meaning of such statement in a certification, commenters asserted. Commenters urged us to clarify in the final rule when responsible officials must certify continuous compliance and when responsible officials must certify intermittent compliance.

Commenters stated that the explanation of our interpretation of continuous versus intermittent compliance certification, contained in the preamble for the March 1, 2001, proposal, was unclear. In general, commenters stated that our explanation of the meaning of continuous or intermittent compliance certification in the March 1, 2001, proposal is indirect, ambiguous, and would lead to inconsistent implementation rendering the compliance certifications meaningless. Commenters also pointed out that, according to our explanation, responsible officials under the same compliance conditions could arrive at different conclusions regarding their compliance status. Additionally, commenters noted that the March 1, 2001, proposal equates the compliance status of responsible officials collecting periodic data with that of responsible officials experiencing periods of noncompliance. Commenters also argued that substantive portions of the discussion referenced in the preamble of the March 1, 2001, proposal as guidance are no longer valid because this guidance was developed for the rules that the court in *NRDC* held were inconsistent with the Act.

Additionally, commenters expressed concern with our approach for revising the rule in the March 1, 2001, proposal and disagreed that it fully addressed the Court's direction expressed in the remand. One commenter representing environmental interests and two industry commenters noted that the proposal retained the requirement for responsible officials to identify in the compliance certification whether their monitoring methods provide continuous or intermittent data. Industry commenters urged us to remove this requirement in the final rule arguing that this requirement was originally in the rule due to the approach invalidated by the Court in *NRDC*. These commenters further argued that the Statute does not provide for this requirement and it only adds an unnecessary burden. One industry commenter suggested that if we would find that such requirement is necessary for implementing the amendments, we should impose it on permitting authorities to avoid mistakes in the classification of methods.

One industry commenter disagreed with our explanation, in section III.B. of the March 1, 2001, proposal's preamble, that permit terms and conditions that are the basis of the certification include applicable recordkeeping, monitoring and reporting provisions. The commenter also objected to the procedure for completing the compliance certification, suggested by this explanation, finding it confusing and impractical. The commenter argued that according to this procedure monitoring, recordkeeping and reporting requirements would need to be identified first as ''methods'' and then again as ''permit terms and conditions.'' Although, the commenter added, it would be unclear what ''methods'' to use to verify compliance with monitoring, recordkeeping and reporting requirements. This commenter further argued that a better reading of the regulations is that ''permit terms and conditions'' include only substantive terms such as emission limits, standards and work practice requirements and exclude monitoring, recordkeeping and reporting. The compliance certification would then address only ''permit terms and conditions,'' and that monitoring, recordkeeping, and reporting requirements would be handled in semiannual monitoring reports. This commenter asked that the discussion of the compliance certification obligations in the final rule should be revised accordingly.

III. Description of the Final Rule

A. How Is EPA Responding to Comments on the Proposal?

Consistent with the March 1, 2001, proposal, today's final rule requires responsible officials to identify in the certification whether compliance with each permit term and condition that is the basis of the certification was continuous or intermittent, during the period covered by the ongoing

certification. The final rule differs from its March 1, 2001, proposal in that responsible officials are no longer required to certify whether the methods used for determining compliance provide continuous or intermittent data. Although the requirement to identify whether the methods used provide continuous or intermittent data was derived for the 1997 amendments to parts 70 and 71, we kept this requirement and the corresponding preamble explanation, in the March 1, 2001, proposal because we sought to address the direction of the Court in a manner that we believed was both simple and direct and we did not believe at that time that this requirement would impose additional burden on sources; therefore, we simply added, to the language already in the rule, regulatory language directing responsible officials to identify, in the certification, whether compliance was continuous or intermittent. In concurring with comments stating that the Court disagreed with us that the requirement to identify whether the methods provide continuous or intermittent data derives from a correct interpretation of the Statutory provision and that this requirement adds unnecessary burden upon sources, we removed the requirement in the final rule.

The Agency is withdrawing section III. B. of the March 1, 2001, proposal's preamble, which would have explained what must be included in the compliance certification, to address comments that the section's depiction of how the certification must be completed is confusing and that this explanation is also ambiguous because it references an invalidated discussion from the preamble of another rule (*see* section II. B. for comments). In addition, we provide the following clarification in regard to the comment on the discussion of the elements of the certification. While agreeing that periodic reporting of monitoring deviations is covered under a separate requirement, the Agency disagrees that compliance with permit terms and conditions that are the basis of the certification can be addressed separately from monitoring deviations or that identifying permit deviations in the compliance certification duplicates other reporting. See § 70.6(c)(5)(iii). In regard to the permit terms and conditions that constitute the ''basis of the certification,'' we agree that these are the substantive regulatory requirements of the Act (such as standards, emission limits or work practices) referred to in Section 114 (a)(3) as ''applicable requirements.'' This conclusion, however, does not in any way alter the sources' compliance certification obligations. First, § 70.6(c)(5)(iii) clearly requires that permit terms that are the basis of the certification as well as permit terms that are the methods be identified in the certification. Second, in order to establish whether the compliance status was continuous or intermittent, for any permit term that is the basis of the certification, responsible officials must first determine whether there were instances of deviations for each of the corresponding monitoring, recordkeeping and reporting permit terms, during periods when compliance was required.

Finally, we agree that our explanation of a certification of ''continuous'' or ''intermittent'' compliance contained in the preamble to the March 1, 2001, is unclear since core portions of the explanation adopted by reference are invalidated by the Court's decision. Following is our explanation of when a source may certify ''continuous'' or ''intermittent'' compliance, according to the final rule, which includes background information. Sections 504(c) and 114(a)(3) of the Act require that each permit contain conditions establishing compliance certification requirements with permit terms and conditions including a requirement for responsible officials to identify the status of compliance and whether compliance, for the covered period, is continuous or intermittent. Additionally, section 504(f) provides that compliance with the permit may be deemed compliance with the underlying applicable requirements. Within this statutory scheme we believe that the determination of the compliance status made by the responsible official, for the purpose of the compliance certification, is simply an evaluation of whether or not the source is, at the time of the certification, and was, during the covered period, in compliance with those permit terms and conditions that establish practically enforceable obligations on the part of the source. Absent evidence to the contrary, the responsible official for a source that is in compliance according to the monitoring results in the permit may certify ''continuous'' compliance, provided that the responsible official did not fail to monitor, or report, or collect the minimum data required by the permit; if there were any deviations, these should have been excused by the permit. If any possible exceptions to compliance occurred, the permit would have provided for additional action that shows the underlying requirement was not violated. Any failure to meet the permit terms or conditions during a period when the permit required compliance would mean that compliance was not continuous, and the responsible official must identify the permit deviation (or possible exception to compliance in the context of part 64) in the certification and certify that compliance for the permit term or condition (that is the basis of the certification) was intermittent. If the source's circumstances are such that the status of compliance with a particular term or condition is undetermined at the time the compliance certification is submitted (such as when the source is awaiting for test results), the responsible official may indicate so in the certification together with the reason, and the date when the source was last found in continuous compliance with the permit term. A responsible official is always free to include any written explanation and other material information that helps clarify the responsible official's conclusion regarding the compliance status.

Responsible officials that used any monitoring method not specified in the permit (regardless of whether the monitoring was performed voluntarily, to comply with a State only requirement, or to track compliance with an applicable requirement that is not yet addressed by the permit), would need to identify the method(s), and take the monitoring results into account when determining the compliance status of the term or condition that is the basis of the certification (applicable requirement).

The final rule takes effect today, June 27, 2003. State permitting authorities who did not revise their operating program rules to conform to the 1997 part 70 revisions, need to take no action, to the extent their rules are consistent with this final rule. Except as described in the following paragraph, other permitting authorities must revise their programs by June 28, 2004 to add a requirement for compliance certifications to identify whether compliance with each permit term and condition that is the basis of the certification was continuous or intermittent during the covered period. The Administrator specifies a deadline of 12 months for submittal of program revisions in light of the narrow scope of the revision required of State programs. Authority for this deadline is provided in 40 CFR 70.4(i)(1), which specifies that the deadline for submittal of revisions to State part 70 programs following revision of relevant Federal regulations is 180 days or ''such other period as the Administrator may

specify, following notification* * *'' Today's action is the notification that triggers the 12-month deadline.

If a State can demonstrate that additional legal authority is needed, the deadline for submittal of a revised program to add a requirement for compliance certifications to identify whether compliance with each permit term and condition during the covered period was continuous or intermittent is June 27, 2005. Authority for this deadline is the same provision in 40 CFR 70.4(i)(1) described in the preceding paragraph for the 12-month deadline.

We believe that this final rule amending the 1997 revisions to part 70 and part 71 rules adequately address the Court's direction expressed in the remand.

B. What Are the Regulatory Revisions to the Proposal?

In response to the comments, we have deleted the second clause after the comma in the first sentence from §§ 70.6(c)(5)(iii)(B) and 71.6(c)(5)(iii)(B). This removes the requirement that the responsible official for the affected facility identify in the annual (or more frequent) compliance certification whether the methods provide continuous or intermittent data. The current language in paragraph (5)(iii)(B) for both sections states: ''The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and weather such methods or other means provide continuous or intermittent data.'' The revised text for both sections reads: ''The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period.'' Other text within §§ 70.6(c)(5)(iii)(B), 71.6(c)(5)(iii)(B), 70.6(c)(5)(iii)(C), and 71.6(c)(5)(iii)(C) remains as proposed in March 2001. The language in this final rule requires responsible officials to identify in the compliance certification whether compliance during the covered period was continuous or intermittent, but responsible officials do not need to state whether the methods used for determining compliance provide continuous or intermittent data. We believe these revisions respond directly and adequately to the Court's decision to remand the compliance certification requirements to us and are consistent with the requirements of the Act.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

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

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in 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 entitlement, grants, user fees, or loan programs of 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.

Because the annualized cost of this final rule amendment would be significantly less than $100 million and would not meet any of the other criteria specified in the Executive Order, we have determined that this final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This amendment does not include or create any information collection activities subject to the Paperwork Reduction Act, and therefore we will submit no information collection request (ICR) to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

C. Regulatory Flexibility Act Compliance as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act generally requires an Agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as (1) a small business that meets the Small Business Administration size standards for small businesses found in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, country, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. We determined and hereby certify that these revisions to parts 70 and 71 will not have a significant economic impact on a substantial number of small entities. The 1992 part 70 and the 1996 part 71 rules imposed the requirement to submit periodic compliance certification reports identifying the compliance status with permit terms and conditions, including a statement of whether compliance was continuous or intermittent. The 1997 part 70 and 71 revisions interpreted that the requirement to address, in the certification, whether the status of compliance was continuous or intermittent could be met implicitly. Although this interpretation did not change the substance of the requirement, it would have adjusted the existing way to comply with the requirement. However, in NRDC the court held that the compliance certification must address explicitly whether compliance was continuous or intermittent. The amendments to parts 70 and 71 in this final rule merely revert the implementation of this requirement according to EPA's original position under the 1992 part 70 and the 1996 part 71 rules; therefore, today's amendments add no burden on responsible officials for any small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we 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, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before we promulgate a rule for which a written statement is needed, section 205 of the UMRA requires us to identify and consider a reasonable number of regulatory

alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed under section 203 of the UMRA a small government agency plan. That plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this amendment is of very narrow scope, and provides a compliance alternative very similar to one already required under the promulgated part 70 and 71 compliance certification regulations. We have determined that this final rule contains no new regulatory requirements that might significantly or uniquely affect small governments. We have also determined that this final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

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

Under section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts State law, unless we consult with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. This final 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, as specified in Executive Order 13132. This action would not alter the overall relationship or distribution of powers between governments for the part 70 program. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Tribal Governments

This final rule does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Accordingly, this rule is not subject to Executive Order 13175.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risk, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule amending the State and Federal operating permit programs is not subject to Executive Order 13045 because it is not ''economically significant'' under Executive Order 12866 and it does not establish an environmental standard intended to mitigate health and safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not a ''significant energy action,'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action simply clarifies the implementation of an existing requirement and does not impose any new requirements that may affect the supply distribution or use of energy.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, Public Law 104–113 (March 7, 1996), we are required to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) which are adopted by voluntary consensus standard bodies. Where we do not use available and potentially applicable voluntary consensus standards, the NTTA requires us to provide Congress, through OMB, an explanation of the reasons for not using such standards. This final rule does not involve technical standards. Therefore, we did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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

Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Judicial Review

Section 307(b)(1) of the Act indicates which Federal Courts of Appeals have venue for petitions for review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the D.C. Circuit: (i) When the agency action consists of ''national applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

This final rule revises part 70 and 71 operating permits programs regulations that are nationally applicable for purposes of section 307(b)(1). Thus, any petitions for review of this interim final rule must be filed in the D.C. Circuit within 60 days from June 27, 2003.

List of Subjects in 40 CFR Parts 70 and 71

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

Dated: June 20, 2003.

Christine Todd Whitman,

Administrator.

■ For the reasons stated in the preamble, we amend title 40, chapter I, parts 70 and 71 of the Code of Federal Regulations to read as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Section 70.6 is amended by revising paragraphs (c)(5)(iii)(B) and (c)(5)(iii)(C) to read as follows:

§ 70.6 Permit content

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under paragraph (a)(3) of this section;

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred; and

* * * * *

PART 71—FEDERAL OPERATING PERMITS PROGRAMS

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

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

■ 4. Section 71.6 is amended by revising paragraphs (c)(5)(iii)(B) and (c)(5)(iii)(C) to read as follows:

§ 71.6 Permit content.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under paragraph (a)(3) of this section;

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification; and

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Part V

Office of Management and Budget

Compliance Assistance Resources and Points of Contact Available to Small Businesses; Notice

OFFICE OF MANAGEMENT AND BUDGET

Compliance Assistance Resources and Points of Contact Available to Small Businesses

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: In accord with the Small Business Paperwork Relief Act of 2002, the Office of Management and Budget (OMB) is publishing a ''list of the compliance assistance resources available to small businesses'' and a list of the points of contacts in agencies ''to act as a liaison between the agency and small business concerns'' with respect to the collection of information and the control of paperwork.

FOR FURTHER INFORMATION CONTACT: Mr. Jefferson B. Hill, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (202/395–3176). Inquiries may be submitted by facsimile to 202/395–7285. Electronic mail inquiries may be submitted to *jhill@omb.eop.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

The Small Business Paperwork Relief Act of 2002 (Public Law 107–198) requires OMB to ''publish in the **Federal Register** and make available on the Internet (in consultation with the Small Business Administration) * * * a list of the compliance assistance resources available to small businesses * * *'' (44 U.S.C. 3504(c)(6)). In addition, under another provision of this Act, ''each agency shall, with respect to the collection of information and the control of paperwork, establish 1 point of contact in the agency to act as a liaison between the agency and small business concerns * * *'' (44 U.S.C. 3506(i)(1)).

Working in cooperation with the Small Business and Agriculture Enforcement Ombudsman (SBA Ombudsman) in the Small Business Administration, OMB has, with the active assistance and support of the SBA Ombudsman, assembled a list of the compliance assistance resources available to small businesses. Because it may be helpful to the public to have the list of agency contacts together with the list of compliance assistance resources, OMB is publishing these lists together. These lists are also available today on OMB's Web site at *http://www.whitehouse.gov/omb/inforeg/infocoll.html*. The SBA Ombudsman is also making these lists available today on the SBA Ombudsman's Web site at *http://www.sba.gov/ombudsman*.

B. Legislative Initiatives

The publication of these lists is part of a more comprehensive effort to assist small businesses. The context for this initiative begins several years ago with enactment of the ''Small Business Regulatory Enforcement Fairness Act of 1996'' (Public Law 104–121, Title II) (SBREFA). Among other provisions, SBREFA calls on agencies to ''publish one or more guides to assist small entities in complying'' with certain regulations (Section 212), and ''to answer inquiries by small entities concerning information on, and advice about, compliance'' with regulatory statutes (Section 213). In other words, Federal regulatory agencies are to develop small entity compliance guides and to answer inquiries, and provide advice, about regulatory compliance issues.

In addition, SBREFA created within the Small Business Administration the office of the ''Small Business and Agriculture Enforcement Ombudsman'' (Section 222). The SBA Ombudsman's responsibilities involve working ''with each agency with regulatory authority over small businesses to ensure that small business concerns [involving the agency's implementation and enforcement of those regulatory authorities] are provided with a means to comment on the enforcement activity'' conducted each agency. In other words, the SBA Ombudsman is to monitor, and report annually to Congress, on the enforcement practices of Federal regulatory agencies.

SBREFA was followed by the Small Business Paperwork Relief Act of 2002 (Public Law 107–198) (SBPRA). As described above, this law requires OMB to publish ''a list of the compliance assistance resources available to small business.'' OMB is also publishing the points of contacts in agencies who are ''to act as a liaison between the agency and small business concerns'' with respect to the collection of information and the control of paperwork.

In addition, this statute directed the Director of OMB to convene and have a representative chair a Task Force ''to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information'' (44 U.S.C. 3520). The Small Business Paperwork Relief Task Force has been developing recommendations to improve and more closely link the existing assistance resources through the use of information technology. More specifically, the Small Business Paperwork Relief Task Force is charged with examining five ways to reduce the information collection burden placed by government on small business concerns. They are:

1. Examine the feasibility and desirability of requiring the consolidation of information collection requirements within and across Federal agencies and programs, and identify ways of doing so.
2. Examine the feasibility and benefits to small businesses of having OMB publish a list of data collections organized in a manner by which they can more easily identify requirements with which they are expected to comply.
3. Examine the savings and develop recommendations for implementing electronic submissions of information to the Federal government with immediate feedback to the submitter.
4. Make recommendations to improve the electronic dissemination of information collected under Federal requirements.
5. Recommend a plan to develop an interactive Government-wide Internet program to identify applicable collections and facilitate compliance.

SBPRA requires OMB to publish a report on the first three topics by June 28, 2003. On May 9, 2003, OMB published in the **Federal Register** a ''Draft Report of the Small Business Paperwork Relief Task Force'' (68 FR 25166, Part III). As required, this draft report discussed the first three topics listed above. The final ''Report of the Small Business Paperwork Relief Task Force'' is available on OMB's Web site at *http://www.whitehouse.gov/omb/inforeg/infocoll.html*. By June 28, 2004, the Small Business Paperwork Relief Task Force will respond to Items 4 and 5 mentioned above.

SBREFA and SBPRA are closely related. SBREFA focuses on helping small businesses understand how to comply with Federal regulations. SBPRA focuses on helping small businesses understand how to comply with Federal collections of information—that is, filling out forms, reporting information, and keeping certain records. These two types of requirements are related because, as the Task Force report noted, agencies generally collect information, or require those regulated to keep records, as part of regulatory provisions. The information-related provisions are designed to help the agency ensure compliance with the rule.

The close functional linkage between compliance with Federal regulations and with Federal reporting and

recordkeeping requirements suggests it is important to coordinate these legislative initiatives designed to assist small businesses. It is also the reason that the development, in particular, of the list of compliance assistance resources available to small businesses should be viewed in the context of the recommendations being developed by the Small Business Paperwork Relief Task Force. The list of compliance assistance resources describes what is now available at the Federal agencies. The Task Force is developing recommendations, for example, on how to develop an interactive Government-wide Internet program to identify applicable information collections and facilitate compliance. In other words, the Task Force is trying to develop recommendations to improve and more closely link the existing assistance resources through the use of information technology.

Donald R. Arbuckle,

Deputy Administrator, Office of Information and Regulatory Affairs.

Compliance Assistance Summaries and Points of Contact

Agriculture

Food Safety Inspection Service (FSIS)

FSIS offers compliance assistance to small meat, poultry, and egg product plants. The FSIS publishes supporting documentation and guidance materials for federally inspected establishments to use in designing and implementing sanitation standard operating procedures and hazard analysis and critical control point (HACCP) food safety systems. FSIS provides technical guidance on many subjects of regulation, including requirements for plant sanitation, the use of food ingredients and food irradiation sources, and the control of pathogens. Also, to help meet the challenges our Nation has faced since September 11, 2001, FSIS has published security guidelines for food producing establishments. Many FSIS publications are available in languages besides English. Web addresses for these publications are:

- Sanitation Compliance Guide: *http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/SanitationCover.htm.*
- **Federal Register** Rule on Cooling and Chilling Requirements For Raw Meat and Poultry: *http://www.fsis.usda.gov/oa/fr/rule2.pdf.*
- Draft of FSIS Microbiological Hazard Identification Guide For Meat And Poultry Components Of Products Produced By Very Small Plants: *http://www.fsis.usda.gov/OA/haccp/hidguide.htm.*
- Advice on Controlling Listeria Monocytogenes in Small and Very Small Meat and Poultry Plants: *http://www.fsis.usda.gov/OPPDE/Nis/Outreach/Listeria.htm.*
- Federal Register Publications and Supporting Documents: *http://www.fsis.usda.gov/OPPDE/rdad/publications.htm.*
- FSIS Security Guidelines for Food Processors: *http://www.fsis.usda.gov/oa/topics/SecurityGuide.pdf.*

Besides its publications, FSIS offers a telephone service, FSIS HACCP Hotline (1–800–233–3935) to help establishments solve problems arising from HACCP plan development and implementation. Assistance on general matters involving meat, poultry, and egg products is available from the FSIS Technical Service Center (402–221–7400; Fax: 402–221–7438; e-mail *Tech.Center@fsis.usda.gov.*

FSIS also operates an extensive small establishment outreach program, featuring FSIS-sponsored workshops and programs, educational material development and distribution, HACCP and food-safety training and training sessions for FSIS consumer safety officers. FSIS consumer safety officers are a highly qualified corps of individuals with the special mission of helping small establishments resolve problems arising in their implementation of HACCP systems. FSIS operates a special food safety outreach program for Native American communities; it includes training for operators of small meat plants.

Through the FSIS network of State cooperators, seminars and training classes on HACCP and food safety are held around the country for operators of food producing establishments. The Outreach Program also distributes multi-media training materials in CD-ROM and video as well as printed formats.

Another useful information source on regulatory compliance is an e-mail service by the FSIS Washington office and directly accessible on the FSIS Web site. This service, FSIS Regulations (*Regulations@fsis.usda.gov*) gives information on laws, regulations, and policies governing FSIS inspection programs and affecting establishments regulated by FSIS.

Animal and Plant Health Inspection Service (APHIS)

APHIS has made compliance assistance resources available to small business entities in several formats. All work extremely well in that APHIS has not received complaints or negative comments regarding insufficient information or difficulty gaining access. The listing of resources we submitted included four web addresses:

- *www.aphis.usda.gov/lpa/pubs*—At this site, small entities will find publications and other materials to help explain APHIS programs such as press releases, frequently asked question, publications, industry alerts, technical reports and stakeholder announcements.
- *www.aphis.usda.gov/pa/video*—This web page provides access to videos about several APHIS programs. With proper equipment, the videos can be viewed from a computer. There is also contact information to obtain copies.
- *On-Site Evaluations/Assistance*—For on-site assistance, the telephone number for each Regional Office is listed to request inspections, assistance, etc.
- *www.aphis.usda.gov/ies*—This is the Web site of the SBREFA Contact. It contains program information and contact information. Comments, complaints, and/or suggestions can be sent by on line mail service to *IES@aphis.usda.gov.*
- *Toll Free Telephone*—Comments, complaints, and/or suggestions can be made without charge by calling 1–866–5Call IES.

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Publications—Regulation, Rules, Technical and Administrative, Directives, Annual Reports: The Grain Inspection, Packers and Stockyards Administration posts current FGIS directives on the GIPSA Web site at: *www.usda.gov/gipsa/pubs.htm.* The publications are in PDF format, so they may be printed directly from the web.

Seminars, classes—Technical Training (*e.g.*, Grain Inspection): GIPSA's Technical Services Division (TSD) provides extensive training throughout the official inspection system to ensure uniform, accurate results are provided at all locations. TSD also offers customized industry education services to facilitate the commercial marketing of grain. Topics include the visual grading of any grain, rice, bean, pea, or lentil and objective, non-visual quality tests such as protein, oil, and mycotoxins. Contact Larry McDonald for more information at: *larry.h.mcdonald@usda.gov.*

Telephone service—information about GIPSA: Responding to customers' needs is GIPSA's main priority. GIPSA designed its programs to concentrate on customers' needs. If customers have comments on GIPSA Customer Service Standards or want information on any GIPSA programs, contact: USDA, GIPSA, STOP 3601, 1400 Independence

Avenue, SW, Washington, DC 20250–3601 or telephone: (202) 720–0219.

CD ROM's/Videos—Technical Information (*e.g.*, *Procedures for Inspection Grain):* GIPSA offers various educational materials created for the U.S. grain industry. They include multimedia CD's and several brochures/handouts. Single copies of CDs are available free by mail and the brochures/handouts are available in PDF format for online viewing and/or download. All materials are public domain and may be freely duplicated and distributed in their original form.

Online/e-mail service—Wide range of information about GIPSA and its programs: Information regarding GIPSA's programs and services can be found in the GIPSA Strategic Plan and on the Agency's Web site at: *http://www.usda.gov/gipsa*.

Onsite Evaluations/Assistance—Process Verification Program for Grain Handers: GIPSA is considering proposing a new process verification program to meet the market's rapidly evolving needs. In this program, GIPSA would apply internationally recognized quality management standards to verify the quality process used rather than testing actual grain itself. The process verification designation verifies the process, not the final product. The process verification program would give industry participants independent verification of their quality processes and standards, and a way to capture values not easily identified by traditional inspection and testing.

Food and Nutrition Service (FNS)

Small Business Compliance Assistance for Retailers in the Food Stamp Program: FNS has significantly increased compliance assistance efforts to retailers in the Food Stamp Program. FNS staff have attended conferences and held face-to-face meetings with retailers to provide technical assistance and listen to their concerns. FNS has developed several new publications, including a retailer training guide, video and CD-Rom that explain the basic program rules and storeowners' responsibilities in an easy-to-read format. They can be found on the FNS Web site at *www.fns.usda.gov/fsp/retailers/* or obtained through local field offices that administer the Food Stamp Program for retailers. FNS is considering translating materials into other languages to accommodate non-English speaking retailers. Retailers can also find general information on the Food Stamp Program at *www.fns.usda.gov/fsp/*. Food Stamp regulations relating to retailers can be found in the Code of Federal Regulations at 7 CFR Parts 278 and 279 (a link to an electronic version is also available on the general FSP Web site referenced above).

Small Business Compliance Assistance for Farmers' Markets/Retailers in the WIC/FNMP Programs

Child Nutrition Act provisions for the WIC and FMNP Programs make State agencies responsible for the authorization, training, monitoring, and corrective action of small businesses such as retailers, farmers, and farmers' markets. FNS has regulations that establish guidelines and parameters for State administration of these activities. Although some uniformity is imposed by these regulations, there is considerable State discretion, so many of the rules will not be the same from one State to the next. For example, State agencies must accept applications from retailers for WIC authorization at least once every three years, but may do so much more frequently, and each State has its own application form. For another example, States are required to allow only certain types and amounts of food to be transacted for WIC food instruments, but the precise brand, package size, and maximum allowed price varies from State to State. The FNS Web site (*http://fns.usda.gov/wic*) includes the WIC/FMNP regulations (7 CFR Parts 246 and 248) and lists WIC and FMNP State agency addresses, telephone numbers, and Web sites.

Agricultural Marketing Service (AMS)

The Agricultural Marketing Service (AMS) has a number of compliance assistance programs to help small entities to comply with program regulations. They range from publications to seminars to e-mail assistance to CD-ROMs and videos. The issues they discuss include information on the Perishable Agricultural Commodities Act, marketing orders, the National Organic Program, grading programs, and science & technology programs, among others. All this assistance and contact information can be accessed by clicking the appropriate program's link on the AMS Web site *http://ams.usda.gov*.

Rural Utilities Service (RUS)

The Rural Utilities Service (RUS) is a financing agency, not a regulating authority. RUS does not have enforcement policies. Its policy on minimum compliance requirements as a condition for financing is to work with the individual applicant/borrower to ensure compliance. RUS does not impose penalties or engage in enforcement activities. Assistance with its programs can be obtained at our Web site at *http://www.usda.gov/rus/*. This site contains information on all of our programs and complete contact information by subject matter and geographic location. If needed, a RUS field representative can come to your location to provide assistance.

Department of Agriculture Single Point of Contact: Jacquelyn Chandler, Office of Budget and Program Analysis, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Rm. 147–E, Washington, DC 20250. Telephone: 202–720–1516. E-mail: *jyc@obpa.usda.gov*.

Commerce

The Department of Commerce understands a vibrant small business sector is critical to creating new jobs in a dynamic and growing economy, so it is mindful of its responsibilities under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The Commerce Department provides substantial regulatory enforcement compliance assistance through a variety of media.

Within the Commerce Department, two agencies regulate the activities of small businesses. The National Oceanic and Atmospheric Administration (NOAA) regulate small businesses under several natural resource protection statutes that NOAA enforces, including the Marine Mammal Protection Act, the Endangered Species Act, and the Magnuson-Stevens Fishery Conservation and Management Act. The Bureau of Industry and Security (BIS), formerly the Bureau of Export Administration (BXA), regulates small businesses under the Export Administration Regulations, which set the criteria for authorizing exports of dual-use items—commercial items with potential military or weapons proliferation applications.

NOAA has a comprehensive program providing regulatory compliance guidance and assistance to small entities, which comprise much of NOAA's regulated community. It has long been NOAA's practice to answer inquiries by small entities, when appropriate, in the interest of administering statutes and regulations. NOAA answers tens of thousands of inquiries from small entities annually. Inquiries are received via telephone, mail and electronic mail; during public hearings, town hall meetings and workshops held by NOAA throughout the year; and in day-to-day interactions small entities have with NOAA. NOAA distributes compliance guides to all those to whom a rule will apply and to others who have expressed interest. It makes them available at sites where

affected parties are likely to see them. The guides may take different forms to best serve the needs of the parties affected by a particular rule.

• NOAA Toll-Free Enforcement Hotline: 1–800–853–1964.

• NOAA Office for Law Enforcement: *http://www.noaa.gov/ole/*.

• NOAA Law Enforcement Contacts: *http://nmfs.noaa.gov/ole/contacts.html*.

NOAA program offices often prepare ''plain English'' summaries of new regulations and distribute them by fax to the regulated communities and the press. For complex regulations, question/answer sheets of the most frequently asked questions are often published in the fishery trade journals that are most often read by the affected fishermen. Information about NOAA's regulations and compliance guidance is often posted on NOAA web pages and on electronic bulletin boards.

Additionally, small entities may contact specific program offices responsible for the regulations at issue. Program offices hold informational workshops to explain new regulations and answer questions from the industry concerning compliance. Fishermen, who make up much of the regulated community, often speak with NOAA's individual fishery plan coordinators for guidance in response to specific factual situations described by the fishermen. In permitted fisheries, letters explaining regulatory changes, and providing the name of a person to contact for additional information and guidance, may be sent to each permit holder. NMFS also has public affairs positions in its regional offices that specialize in community outreach.

BIS similarly provides exporters a wide range of compliance assistance. These include compliance guides in the forms of instructional brochures, fact sheets and guidance posted on the BIS Web site. BIS also educates small businesses through seminars, meetings, workshops and, when requested, one-on-one counseling.

• BIS Web site: *http://www.bxa.doc.gov/index.htm*.

• BIS Export Enforcement Hotline: 1–800–424–2980.

• Office of Export Enforcement Intelligence: (202) 482–1208.

• Exporter Counseling Division: (202) 482–4811.

The Office of Antiboycott Compliance (OAC) within BIS advises small businesses on compliance with the antiboycott regulations through its telephone advice line. Callers can seek compliance advice before engaging in transactions. The OAC also offers counseling to small businesses to assist them in solving their boycott problems legally. Antiboycott Advice Line: (202) 482–2381.

Patent and Trademark Office

U.S. Patent and Trademark Office (USPTO) Office of Procurement awards and administers a wide variety of contracts and simplified purchases for the acquisition of goods and services required throughout the agency. Our site includes helpful links such as current USPTO contracts, upcoming opportunities, office staff listing, helpful information for small businesses, information on our new Performance Based Organization (PBO) procedures and other related topics.

The USPTO Office of Procurement continually strives to remain on the leading edge of procurement reform and current technology. It is our goal to identify and utilize new innovative techniques to develop a partnership with industry.

A major goal at the United States Patent & Trademark Office, Office of Procurement is to promote and give consideration to small business concerns. Requirements over the micro purchase amount of $2,500 are identified early in the acquisition process to allow for consideration for small, small disadvantaged, woman-owned and minority-owned businesses. *http://www.uspto.gov/web/offices/ac/comp/proc/ipa/ipamain.htm*

The Office of Procurement continues to promote Electronic Commerce (EC) and utilize innovative technologies to streamline procurement processes. Our EC effort, known as the Internet-Based Purchasing Application (IPA), has been in use for over a year now. The IPA continues to grow and is a successful tool in conducting simplified acquisitions over the Internet.

For more information please contact:

Susan K. Brown, Records Officer, (PRA Clearance Desk), U.S. Patent and Trademark Office, Office of the Chief Information Officer, Suite 310, 2231 Crystal Drive, Washington DC 20231, Telephone: 703–308–7400. E-Mail: *susan.brown@uspto.gov*.

Muriel A. Brown, Small Business Liaison, U.S. Patent and Trademark Office, Office of Procurement, Box 6, Washington, DC 20231. Telephone: 703–305–8370. E-mail: *Muriel.brown@uspto.gov*.

Department of Commerce Single Point of Contact: Tom Pike, Office of the Chief Information Officer, U.S. Department of Commerce 14th St. & Constitution Ave., NW., Washington, DC 20230, (202) 482–4797.

Defense

It is the Department of Defense (DOD) policy that a fair proportion of DOD total purchases, contracts, subcontracts, and other agreements for property and services be placed with small business concerns, service-disabled veteran-owned small business concerns, qualified historically underutilized business zone (HUBZone) small business concerns, small disadvantaged business concerns, women-owned small business concerns, and historically Black colleges and universities and minority institutions.

The Director of the Office of Small and Disadvantaged Business Utilization (SADBU) is the principal proponent within the Office of the Secretary of Defense for executing national and DOD policy as mandated by the Congress and the President. The Director acts as ombudsman and coordinator with the functional activity concerned in responding to complaints and resolving problems encountered by small business firms performing under DOD contracts.

The Washington Headquarters Services, Directorate for Information Operations and Reports (WHS/DIOR), serves as the central repository for statistical information for the Department of Defense. General procurement data, including subcontract information, is located on the WHS/DIOR Web site at *http://www.dior.whs.mil/peidhome/piedhome.htm*. Specifically, SADBU utilizes the standard tabulation (ST) 28 report, titled ''Contract Awards by FSC and Purchasing Office,'' as a key document to assist small business concerns in identifying contracting activities with contracting potential. The ST 28 matches the dollar obligations and contract actions under each specific Federal Supply Class or Service Codes and details the contracting activities that made awards by name, city, and state. The ST 28 can be found at *http://www.dior.whs.mil.peidhome/procstat/prostat.htm*.

The Defense Logistics Agency, on behalf of the Secretary of Defense, administers the DOD Procurement Technical Assistance Program (PTAP). PTAP Centers are a local resource that can provide assistance to business firms in marketing products and services to the Federal, state and local governments. A list of PTAP Centers can be found at *http://www.dla.mil/db/procurem.htm*.

The DOD Regional Councils for Small Business Education and Advocacy are a nationwide network of small business specialists organized to promote the

National Small Business Programs of the United States. Council objectives include promoting the exchange of ideas and experiences, and general information among small business specialists and the contracting community; developing closer relationships and better communication among Government entities and the small business community; and staying abreast of statutes, policies, regulations, directives, trends, and technology affecting the Small Business Program. There are eight Regional Councils sponsored by the DOD Office of Small and Disadvantaged Business Utilization (SADBU) governed by individual by-laws. Further information can be found at *http://www.acq.osd.mil/sadbu/programs/regional/index.htm*.

Information on DOD's initiatives and programs is available on SADBU's Web site *http://www.acq.osd.mil/sadbu/index.htm*. Contact information and links to DOD Component SADBU Offices can be found at *http://www.acq.osd.mil/sadbu/links/sadbu.htm*.

Department of Defense Single Point of Contact: Robert L. Cushing, Jr., U.S. Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302. Telephone: 703–604–6269. E-mail: *cushingr@dior.whs.mil*.

Education

- Online library of information on education legislation, research, statistics, and programs: *www.ed.gov*
- Department of Education programs and initiatives: 1–800–USA–LEARN (1–800–872–5327)
- Student aid: 1–800–4FED–AID (1–800–433–3243)
- Matters affecting small businesses: U.S. Department of Education, Office of Small and Disadvantaged Business Utilization, 400 Maryland Ave., SW., Washington, DC 20202, Telephone: (202) 708–9820
- Student loan issues: *www.ombusman.ed.gov,* U.S. Department of Education, FSA Ombudsman, 830 First St., NE., 4th Floor, Washington, DC 20202–5144; Telephone: 1–877–557–2575; Fax: (202) 275–0549

Education Department Single Point of Contact: Angela C. Arrington, U.S. Department of Education, Office of the Chief Information Officer, 400 Maryland Ave. SW., Washington, DC 20202. Telephone: (202) 260–6871. E-mail: *Angela.Arrington@ed.gov*

Energy

The Office of Small & Disadvantaged Business Utilization (OSDBU) and the Office of the Ombudsman handle small business compliance at the U.S. Department of Energy (DOE). And, each site facility and DOE contractor has a small business manager dedicated to small business compliance. (*http://www.smallbusiness.energy.gov*)

The OSDBU oversees small business programs department-wide, setting policies and procedures to ensure small business compliance in DOE contract awards. The OSDBU also maintains a Web site with a clearinghouse of small business information, as well as small business policies and regulations and information on resources available to small businesses both at DOE and at other agencies/departments. The OSDBU has an extensive outreach/marketing program, including advertising in various publications and participation in various small business conferences.

DOE maintains a number of partnerships with many federal agencies such as the Small Business Administration and the Office of Federal Contract Compliance to promote small business compliance. The OSDBU has a ''Small Business Council'' composed of representatives of major trade associations, small and minority business chambers, women and veteran groups to ensure information/feedback to/from the small business community relative to small business compliance.

The Office of the Ombudsman provides small business access to an impartial review of their issues in dealing with the DOE and its contractors. The Office gives small business guidance and referral services to the correct entity within DOE and serves as a voice for the small business within DOE.

Department of Energy Single Point of Contact: Theresa Speake, Director, Office of Small & Disadvantaged Business Utilization, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585. Telephone: 202–586–8383. E-mail: *Theresa.Speake@hq.doe.gov*.

Health and Human Services

Office of Small and Disadvantaged Business Utilization

Located in HHS's Office of the Secretary, the Department's Office of Small and Disadvantaged Business Utilization (OSDBU) fosters the use of small and disadvantaged businesses as Federal contractors. To accomplish this task, the OSDBU develops and implements outreach programs aimed at heightening the awareness of small business community to the contracting opportunities available across the Department.

Outreach efforts include activities such as sponsoring small business fairs and procurement conferences as well as participating in trade group seminars, conventions, and other forums, which promote the utilization of small and disadvantaged businesses as contractors. The OSDBU Web page, *www.HHS.gov/osbdu,* presents important resources to aid contractors in doing business with the Department. OSBDU's Director is Ms. Debbie Ridgeley. Ms. Ridgeley may be contacted by telephone at 202–690–7300, or by E-mail at: *Debbie.ridgely@hhs.gov*.

The following small business specialists in the Department's Operating Divisions also foster the use of small and disadvantaged businesses as Federal contractors. (*See* below for narrative information on the small-business activities at the Food and Drug Administration, the Centers for Medicare and Medicaid Services, the Health Resources and Services Administration, and the National Institutes for Health).

Agency for Health Care Research and Quality

Ms. Sherry Baldwin, DHHS-Executive Office Center, 2101 East Jefferson Street, Suite 601, Rockville, MD 20852. Telephone: 301–594–7190. Fax: 301–443–7523. E-mail: *sbaldwin@ahrq.gov*

Centers for Disease Control and Prevention

Mr. Curtis L. Bryant, 2920 Brandywine Road, Room 2606, Mail Stop E–14, Atlanta, GA 30341. Telephone: 770–488–2806. Fax: 770–488–2828. E-mail: *ckb9@cdc.gov*

Indian Health Service

Ms. Nelia K. Holder, Office of Management Support, 12300 Twinbrook Parkway, Rockville, MD 20852. Telephone: 301–443–1480. Fax: 301–443–0929. E-mail: *nholder@hqe.ihs.gov*

Program Support Center

Ms. Linda Danley, Division of Acquisition Management, Room 5C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Telephone: 301–443–1715. Fax: 301–443–7593. E-mail: *ldanley@psc.gov*

Substance Abuse and Mental Health Services Administration

Ms. Vivian Kim, Room 13–99, Parklawn Building, 5600 Fishers Lane,

Rockville, MD 20857. Telephone: 301–443–8843. Fax: 301–594–2336. E-mail: *Vkim@samhsa.gov*

Food and Drug Association (FDA)

FDA provides a wealth of written and electronic information to assist small business compliance with FDA regulatory requirements.

FDA has published hundreds of guidelines to assist regulated industry, including small business, in complying with the laws and regulations that FDA administers. These guidelines cover virtually all areas that FDA regulates, from new drug and medical device premarket review, to product import and export issues, to issues that relate to the manufacture of foods, drugs, devices, and biological products.

FDA has also published and made widely available guidelines that the agency has developed for its own enforcement and compliance staff. These guidelines describe the general standards for compliance action and set forth the procedures to be followed in conducting investigational and enforcement activities. Essentially all of these written materials are available through FDA's many web-sites. FDA has also prepared ''plain language'' versions of some of the more technical documents to assist small businesses and others in understanding FDA's expectations.

FDA has created a number of small business and industry assistance ''homepages'' on its web-sites that bring together an array of useful regulatory and compliance information.

For example, the Center for Devices and Radiological Health has created a ''Device Advice'' Web page, a self-service interactive site for obtaining information about medical devices. The human pharmaceutical program has created a comparable Web page, ''Small Business Assistance''.

FDA's Small Business Representatives (SBRs) are a significant resource for the small business community. Each of FDA's five regional offices is assigned an SBR to provide small business educational outreach and training.

FDA regional offices represent another significant informational resource for the small business community. The regional offices answer thousands of questions, conduct scores of training programs, and organize many ''grassroots'' meetings to educate the regulated industry, especially small businesses, about emerging regulatory topics of interest.

In addition, FDA's public affairs specialists (PASs), who are assigned to many of the agency's field offices, are able to respond to questions about FDA's programs, policies, and procedures.

Finally, FDA has appointed ombudsmen in the Office of the Commissioner, the Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, the Center for Veterinary Medicine, and the Center for Devices and Radiological Health. These officials not only provide compliance assistance, but also help regulated companies explore available options in resolving disputes with the agency.

Guidelines

Technical guides. FDA has issued hundreds of guides to assist manufacturers in meeting premarket approval and other regulatory requirements. Among these guidelines a number of guidelines expressly directed to the concerns and needs of small businesses.

Inspectional guides. FDA has made publicly available the agency's manuals and written procedures governing the conduct of inspectional and investigational activities.

Policy Guides

FDA has issued many guidelines to help regulated industry understand the laws, policies, and regulations that FDA administers. Many of these documents are issued in ''plain language'' versions to assist small businesses and others in understanding FDA's expectations.

All of the above-cited guidance materials may be accessed through the following Web sites:

- Center for Drug Evaluation and Research Guidance Documents: *http://www.fda.gov/cder/guidance/index.htm*
- Center for Devices and Radiological Health Guidance Documents for Industry: *http://www.fda.gov/cdrh.guidance.htm*
- Center for Food Safety and Applied Nutrition Food and Cosmetic Guidance Documents: *http://www.cfsan.fda.gov/~dms/guidance.html*
- Office of Regulatory Affairs Inspection References: *http://www.fda.gov/ora/inspect_ref/default.htm*

Web Assistance

The following small business and industry-assistance homepages also bring together an array of useful regulatory and compliance information:

- Center for Drug Evaluation and Research (CDER) Small Business Assistance: *http://www.fda.gov/cder/about/ smallbiz/default.htm*—This site provides a listing of various programs, laws, regulations, and organizations that pertain to the drug development and approval process. This site is specifically geared to small businesses; however, general information relating to both small and large businesses is also available here (*i.e.*, guidance documents, CDER calendar, etc.).
- Information on Devices: *http://www.fda.gov/cdrh/devadvice/*—This is an interactive, self-service site. It contains information on ''How to Market Your Device'' as well as an overview of the regulations, guidance documents, consumer information, and more.
- Veterinary Products: *http://www.fda.gov/cvm/faqs/faqs.html*—This site answers ''Frequently Asked Questions'' about veterinary products. It includes links to sites that provide information and requirements for topics such as ''New Animal Drug Approval'' and ''Marketing a Pet Food Product,'' as well as others.
- Center for Biologic Evaluation and Research (CBER): *http://www.fda.gov/CBER/manufacturer.htm*—This Web site from the Center for Biologic Evaluation and Research explains the manufacturers assistance program, which provides assistance and training to companies, both large and small, regarding CBER policies and procedures. This site also contains links to other sites that may be of values to the small business owner.
- Office of Regulatory Affairs Information on Small Business: *http://www.fda.gov/ora/fed_state/small_business/default.htm*.
- Office of Regulatory Affairs Small Business Guide to FDA: *http://www.fda.gov/ora/fed_state/Small_Business/sb_guide/default.htm*.—This site is from the FDA's Office of Regulatory Affairs. It offers links to a number of useful sites such as ''What to do when marketing a new product,'' ''recalling a product,'' ''undergoing an FDA inspection,'' etc. It also provides an introduction to the **Federal Register**, information on obtaining FDA documents, frequently called numbers, and much more information.
- Center for Food Safety and Applied Nutrition Guide to Starting a Food Business: *http://www.cfsan.fda.gov/~comm/foodbiz.html*—Advice on ''Starting A Food Business'' which may be of interest for the (potential) small business owner. This site provides links to federal and state regulatory agencies, import & export information, as well as several other helpful sites.

Small Business and Industry Assistance Offices. Each major FDA component has its own industry assistance office. Staff in these offices provide program-specific information

and compliance assistance, through the contact points indicated below:

CDER Small Business Assistance Drug Information Branch, 301–827–4573, *ordib@cder.fda.gov.*

CBER Division of Manufacturers Assistance and Training, 301–827–2000, or *matt@cber.fda.gov.*

CDRH Division of Small Manufacturers, International and Consumer Assistance, *dsma@cdrh.fda.gov*, Telephone: 1–800–638–2041.

CVM Communications Staff, *jkla@cvm.fda.gov,* Telephone: 301–827–3806.

CFSAN Industry Activities Staff, *giguina@cfsan.fda.gov,* Telephone: 301–436–1730.

The Small Business Representatives identified below in each of FDA's five regional offices provide small businesses with personalized educational outreach and compliance assistance.

Northeast Region (CT, MA, ME, NH, NY, RI, VT)

Marilyn Corretto, 158–15 Liberty Avenue, Jamaica, NY 11433–1034. Telephone: 718–662–5618. Fax: 718–662–5434. E-mail: *oranersbr@ora.fda.gov.*

Central Region (DC, DE, IL, IN, KY, MD, MI, MN, ND, NJ, OH, PA, SD, VA, WI, WV)

Marie T. Falcone, U.S. Customhouse, 2nd and Chestnut Sts., Room 900, Philadelphia, PA 19106. Telephone: (215) 597–2120 ext. 4003. Fax: (215) 597–5798. E-mail: *mfalcone@ora.fda.gov.*

Southeast Region (AL, FL, GA, LA, MS, NC, PR, SC, TN, VI)

Food and Drug Administration, 60 Eighth St., NE., Atlanta, GA 30309. Telephone: (404) 253–1217. Fax: (404) 253–1207. E-mail: *orasesbr@ora.fda.gov.*

Southwest Region (AR, CO, IA, KS, MO, NE, NM, OK, TX, UT, WY)

David Arvelo, 40 N. Central Expy., Suite 900, Dallas, TX 75204. Telephone: (214) 253–4952.

Assistant: Sue Thomason, Telephone: (214) 253–4951. Fax: (214) 253–4970. E-mail: *oraswrsbr@ora.fda.gov.*

Pacific Region (AK, AZ, CA, HI, ID, MT, NV, OR, WA)

Marcia Madrigal, Oakland Federal Building, 1301 Clay Street, Suite 1180–N, Oakland, CA 94612–5217. Telephone: (510) 637–3980. Fax: (510) 637–3977. E-mail: *mmadriga@ora.fda.gov.*

Ombudsman

FDA's Ombudsman Offices provide compliance assistance and assistance in informal dispute resolution. There are also ombudsman offices in most of the program offices.

Office of the Commissioner

Office of the Ombudsman, Food and Drug Administration, 5600 Fishers Lane, Room 4B–44, HF–7, Rockville, MD 20857. Telephone: 301–827–3390. Fax: 301–480–8039. E-mail: *ombuds@oc.fda.gov.*

Center for Biologics Evaluation and Research

Sherry Lard Whiteford, CBER Ombudsman (HFM–4), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448. E-mail: *lard@cber.fda.gov.* Telephone: 301–827–0379.

Center for Drug Evaluation and Research

CDER Ombudsman (HFD–1), 5600 Fishers Lane, Room 9–74, Rockvillle, MD 20857. Telephone: 301–594–5443 or 301–827–4312. E-mail: *ombudsman@cder.fda.gov.*

Center for Devices and Radiological Health

Les Weinstein, CDRH Ombudsman, Office of the Center Director, Center for Devices and Radiological Health, U.S. Food and Drug Administration, 9200 Corporate Blvd. (HFZ–5), Rockville, MD 20850. Telephone: 301–827–7991. Fax: 301–827–2565. E-mail: *ombudsman@cdrh.fda.gov.*

Center for Veterinary Medicine

Marcia K. Larkins, D.V.M., FDA Center for Veterinary Medicine, Ombudsman, 7519 Standish Place, HFV–7, Rockville, MD 20855. Telephone: (301) 827–4535. Fax: (301) 827–3957. E-Mail: *mlarkins@cvm.fda.gov.*

Center for Medicare and Medicaid Services (CMS)

CMS's Small Business Office

CMS has a full time Small and Disadvantaged Business Utilization Specialist (SDBUS) located in its Acquisition and Grants Group. The SADBUS is the Agency's focal point for ensuring that all reasonable action is taken to increase awards to small, small disadvantaged, HUBZones, and women-owned businesses. Company profiles and capability statements for all types of services are maintained by this office. Inquiries should be directed to Mrs. Joanne Day, on 410–786–5166, or e-mail may be sent to: *jday@cms.hhs.gov.*

Grant Opportunities

While CMS's Program Offices are concerned with the scientific, technical and programmatic topics, the Acquisition and Grants Group/Research Contracts and Grants Division is primarily charged with the business management and policy aspects of CMS's discretionary grant and cooperative agreement activities.

Currently, CMS conducts a myriad of R&D programs including (but not limited to) the following: Fraud and Abuse Initiatives, State Health Insurance, Small Business Innovation Research, Dissertation Fellowship Grants, Nursing Home Transition Initiatives, Historically Black Colleges and Universities and Hispanic Health Services Research. For additional information, please contact Judy Norris on (410) 786–5130 or e-mail to: *jnorris1@cms.hhs.gov.*

In addition, CMS provides on its all-purpose Web site, *www.CMS.HHS.gov,* extensive amounts of information about the agency's programs, organized in terms of the kind of health-service provider affected, *e.g.* hospitals, nursing homes, home health agencies, or durable medical equipment suppliers. This information is not currently differentiated in terms of the size of these providers' business entities, but CMS is planning to take steps in the near future to earmark the information in terms of its applicability to small businesses.

Health Resources and Services Administration

The Health Resources and Services Administration (HRSA) exists primarily to expand access to health care for medically underserved individuals and families across the nation through community-based networks of primary and preventive health care services. HRSA has become known as ''The 'Access' Agency'' for its services to Americans who lack health insurance; 62 million Americans in rural communities; 78 million racial and ethnic minorities; over 800,000 Americans with HIV/AIDS; and about 80,000 U.S. residents awaiting organ transplants.

HRSA Contracting Office and Small Business Representative

The HRSA contracting office, the Contracts Operations Branch, is currently part of the Division of Grants and Procurement Management. The current Small Business Representative, Ms. Debora Pitts, is available to assist small businesses in navigating the field of HRSA acquisitions. Ms. Pitts may be contacted at 301–443–3789.

Key Contact Persons in HRSA Contracts

HRSA ''HCA'' (Head of Contracting Activities) is Dr. Albert F. Marra, who may be reached at 301–443–1433. The HRSA Chief of the Contracts Operations Branch is Mr. Steve Zangwill, who may be contacted at 301–443–5097. Mr. Zangwill is assisted by Mr. Frank Murphy, who leads the negotiated contract team, at 301–443–5165, and Ms. Bonnie Garcia, who heads the simplified acquisitions team at 301–443–5116. The main office number is 301–443–1433.

All contracting opportunities at HRSA are announced publicly via the world wide web using the government's new FedBizOpps program at the following Web site: *www.fedbizopps.gov.*

Contractors and vendors are urged to visit that site, as well as the larger HRSA Web site at *www.hrsa.gov* to keep abreast of contracting needs as well as programmatic changes and developments. Another vehicle open to interested potential contractors is to study the grants funding opportunities available to various agencies and organizations. These grants opportunities, which are also announced via the web, the **Federal Register**, FedBizOpps, and through ''The HRSA Preview,'' give further indications of potential acquisitions needs. The HRSA Preview may be obtained through the HRSA Web site or by calling 1–877–HRSA–123. Contractors may also find fertile opportunities for sub-contracting with HRSA grantees.

National Institutes of Health (NIH)

Small Business Office

The NIH Small Business Office (SBO) serves as an advocate for small business through various program activities and outreach efforts. These efforts are intended to maximize prime and subcontract acquisition opportunities at the NIH for small businesses owned by the disadvantaged, women, veterans, service-disabled veterans, and Historically Underutilized Business Zone (HUBZone) concerns.

The Small Business Program is located in the NIH's Office of Acquisition Management and Policy, whose URL is: *http://oa.od.nih.gov/oamp/index.html.*

Specific points of contact include:

NIH Small Business Office, Diana Mukitarian, Chief, 6100 Executive Boulevard, Room 6D05, Bethesda, MD 20892–7540. Phone: (301) 496–9639. Fax: (301) 480–2506. E-mail: *sbmail@od.nih.gov.*

The National Cancer Institute, Joseph Bowe, Small Business Specialist, 6120 Executive Boulevard, Room 608, Bethesda, MD 20892–7222. Phone: (301) 435–3810. Fax: (301) 480–0309. E-mail: *Bowej@rcb.nci.nih.gov.*

The National Institute of Environmental Health Sciences, Mary B. Workman, Small Business Specialist, Acquisitions Management Branch, P.O. Box 12874, MD NH–02, Research Triangle Park, NC 27709. Phone: (919) 541–0377. Fax: (919) 541–5117. E-mail: *workman@niehs.nih.gov.*

Among other things, the Small Business Program at the NIH is responsible for:

- Developing and maintaining acquisition review procedures and guidelines for requests for contracts, subcontracting plans and operations as contract activities. Such reviews result in recommendations to contracting officers regarding the method of acquisition to be pursued and the acceptability of proposed subcontracting plans and prime contractors' small business programs;
- Conducting surveillance of contract, simplified acquisition and satellite small business program activity, and conducting studies of specific problem areas to ensure effective small business program performance and compliance with applicable laws and regulations;
- Ensuring the development and presentation of management data to provide continuing visibility of program activity and to evaluate program accomplishments against agency socio-economic goals;
- Representing the NIH at Federal, state, local government and congressional small business conferences and fairs. Serving as a guest and expert speaker at various Federal, state, local government and Congressional small business conferences and fairs;
- Serving as a liaison between the NIH program and contract staff and the contractor community;
- Delivering industry assistance by maintaining a program designed to locate capable small, disadvantaged, woman, veteran, service-disabled and HUBZone—owned small business concerns for current and future acquisitions;
- Representing the NIH to industry by interfacing with CEOs and other principals of private companies, to include small and large firms, as well as nonprofits and universities;
- Responding to inquiries and requests for advise from small, disadvantaged, woman, veteran, service-disabled and HUBZone—owned businesses; and assisting small business in their marketing and business development efforts and activities.

Department of Health and Human Services Single Point of Contact: Robert Polson, HHS Reports Clearance Officer, ASBTF/OIRM/OITP, Room 531H–71, Humphrey Building, Washington DC 20201. Telephone: (202) 260–0040. E-mail: *SB.PRA@HHS.gov.*

Homeland Security

The Department of Homeland Security's (DHS) Office of Small Business and Disadvantaged Business Utilization (OSDBU) assists, counsels, and advises small businesses of all types (small businesses, small disadvantaged business, women-owned small businesses, veteran owned small businesses, service disabled veteran owned small businesses, and small businesses located in historically underutilized business zones) on procedures for contracting with DHS.

Office of Small and Disadvantaged Business Utilization (OSDBU)

The Department of Homeland Security's (DHS) Office of Small Business and Disadvantaged Business Utilization (OSDBU) assists, counsels, and advises small businesses of all types (small businesses, small disadvantaged business, women-owned small businesses, veteran owned small businesses, service disabled veteran owned small businesses, and small businesses located in historically underutilized business zones) on procedures for contracting with DHS. The point of contact for this small business program is Kevin Boshears; he may be reached at (202) 772–9792 and *kevin.boshears@dhs.gov.*

Office of the Private Sector

The Office of the Private Sector has an e-mail address where small business inquiries could be made, namely *private.sector@dhs.gov.* The Office will, pursuant to the Homeland Security Act, have the capability to advise the Secretary regarding the impact on the private sector, including small business, of proposed regulations concerning homeland security. For now an individual and phone number that can be used as an entry point to the Office would be Ms. Elizabeth Callaway at (202) 282–8484 and *elizabeth.callaway@dhs.gov.*

Department of Homeland Security Single Point of Contact: Elizabeth Callaway, U.S. Department of Homeland Security, Attn: Private Sector Office, Washington, DC 20528. Telephone: (202) 282–8484. E-mail: *Elizabeth.callaway@dhs.gov.*

Bureau of Citizenship and Immigration Services (INS)

The paperwork requirement imposed by the Bureau of Citizenship and Immigration Services is the Form I–9. Completion of this one-page form by employers helps to insure a legal workforce within the United States and does not present a significant burden for businesses. The Bureau has instituted electronic filing of some applications and provides application status on line. These improvements have been a boost to many businesses, providing a speedy mechanism for filling critical positions with foreign experts or semi-skilled workers with temporary and permanent foreign workers. Many employers make use of the Bureau's petitions and applications for approval to hire alien temporary workers.

Live voice assistance, Employer Hotline (800) 357–2099 is available for employers and Live voice assistance for general questions (800) 357–5283. Information for e-filing can be found at *www.bcis.gov.* Employer Assistance Resources can be found at *www.bcis.gov* under the title ''Information for Employers'', Office of Business Liaison. Requests for speakers and questions can be faxed to (202) 305–2523.

DHS Point of Contact for Small Business Compliance Assistance: Felicia A. Colvin, Supervisory Information Specialist, Office of Business Liaison, Bureau of Citizenship and Immigration Services, Telephone: (202) 305–2461.

Bureau of Customs and Border Protection (CBP)

The newly formed Bureau of Customs and Border Protection (CBP) have been working under the trade concept of ''informed compliance'' since the passage of the Customs Modernization Act (1993). This law mandated CBP to develop a proactive strategy to advise importers of their responsibilities under the law. To fulfill this mandate, CBP has implemented several measures for providing guidance on laws governing international trade for all importers and exporters, including small businesses. Small businesses can avail themselves of this information using the following means: CBP Web Site (downloadable); local and national trade meetings/seminars; weekly publications of the *Customs Bulletin;* binding rulings program; other informed compliance brochures and pamphlets; and direct contact with CBP personnel.

There are over 300 ports of entry where we enforce numerous laws for CBP and other government agencies while serving as America's frontline for border security. As the agency's primary responsibility, CBP has twin goals of improving security and facilitating legitimate trade and travel, which are not mutually exclusive. In its role to facilitate trade, CBP has always provided compliance assistance to the trade community about the laws and regulations that apply to importing and exporting. Customs officers at the ports of entry, the Strategic Trade Centers, Customs Management Centers and at Headquarters daily receive and respond to requests for information from the public.

- CBP Web site: *http://www.cbp.gov/xp/cgov/toolbox/ports/*

The CBP Web site lists all ports of entry with their addresses and telephone numbers. CBP has incorporated a Customer Service Center that responds to inquiries via a toll free number (1–877–Customs). The Office of Trade Relations (OTR) is designated as the point of contact within CBP for small businesses and may be reached at (202) 927–1440 or via e-mail at *traderelations@customs.treas.gov.* This office was revamped in 2002 to ensure effective, extensive communication between CBP and all facets of the trade community. Any small entity seeking general information about importing procedures or feeling it has received unfair treatment may contact OTR for assistance.

Customs and Border Protection, Office of Trade Relations, 1300 Pennsylvania Avenue NW., Room 4.2A, Washington, DC 20229. Telephone: 202–927–1440. Fax: 202–927–1696. E-mail: *traderelations@customs.treas.gov.*

Coast Guard

Marine Safety, Security and Environmental Protection G–M.

The point of contact for SBREFA is: Jaideep Sirkar, U.S. Coast Guard (G–MSR), 2100 Second Street, SW., Rm. 1400. Washington, DC 20593–0001. Telephone: (202) 267–6819.

The SBREFA point of contact can be contacted via two different email addresses: *msregs@comdt.uscg.mil* or *jsirkar@comdt.uscg.mil* both of these email addresses are available on the Coast Guard web page.

The Coast Guard web page is designed to provide important regulatory information to small entities; Encourage small entities to participate in the regulatory development process; and help small entities comply with marine safety regulations implemented by the Coast Guard. The following are links to our webpage:

- Small Entity Regulatory Assistance: *http://www.uscg.mil/hq/g-m/regs/sbrefa.html*
- Marine Safety, Security and Environmental Protection Program's Regulatory Home Page: *http://www.uscg.mil/hq/g-m/regs/reghome.html*

Point of contact: Carl Perry, Telephone: (202) 267–0979. E-mail: *cperry@comdt.uscg.mil.*

The Boating Safety webpage is *http://www.uscgboating.org/.* It is designed to give assistance and information to recreational boat owners and manufacturers on boating safety regulations.

Collection of Information

The Coast Guard point of contact: Barbara Davis, Telephone: (202) 267–2326. E-mail: *bdavis@comdt.uscg.mil.*

Housing and Urban Development

The Office of Small and Disadvantaged Business Utilization (OSDBU) has many tools available for small businesses. Through the establishment of the Information Technology (IT) training HUD has provided a learning tool for small businesses to understand all aspects of HUD's IT opportunities. Introducing this training program has enabled HUD to form partnerships with small businesses and identify qualified companies to seek IT opportunities within the agency.

HUD sponsors Marketing and Outreach business fairs and focuses both on direct HUD contracting opportunities and contracting opportunities created by HUD assisted projects including Community Development Block Grant recipients and Public Housing authorities. HUD outreach sessions include HUD program offices and prime contractors who offer sub-contracting opportunities to small, small disadvantaged and women-owned businesses. HUD has attended approximately 50 outreach conferences including procurement fairs, trade shows, marketplace presentations throughout the country with a strong emphasis on the utilization of small businesses.

HUD's contracting home page is linked to the OSDBU homepage in HUD's Web site. The contracting home page contains notices of HUD procurement opportunities and allows interested parties to download a file containing solicitations. A special OSDBU page contains Small Business tips, the Forecast of Contracting Opportunities, a Small Business Resource Guide and notification of outreach activities.

The chart below identifies the Department's compliance assistance

resources for submission to OMB for the Internet.

HUD also has the HUD Procurement System (HPS), an integrated commercial and customized software program that automates procurement operations department-wide. This system includes a rapid query of contracting information that enables all companies to submit bids or proposals for upcoming contracting opportunities and the identification of HUBZones for participation in contracting and sub-contracting opportunities. Additionally, it provides HUD with a system to monitor and evaluate its actual achievements in regard to participation of small businesses in HUD activities.

HUD sponsors Marketing and Outreach business fairs and focuses both on direct HUD contracting opportunities and indirect contracting opportunities created by HUD assisted projects including, Community Development Block Grant recipients and public housing authorities. During these events, program offices and prime contractors who offer sub-contracting opportunities to small, small disadvantaged and women owned businesses are urged to attend. Last year, HUD attended approximately 50 outreach conferences including procurement fairs, trade shows and marketplace presentations throughout the country. The OSDBU Business Utilization Development Specials (BUDS), have regular one-on-one meetings with small businesses. The Director holds ''Thursday Open House'' sessions for all small, small disadvantaged and Women Owned Small Businesses (WOSBs). These meetings give small businesses the opportunity to meet personally with the Director and the specialized BUDS advocate within the OSDBU. The aforementioned efforts are in addition to the daily counseling and one-on-one meetings held with these businesses at the HUD headquarters and field offices.

The OSDBU has increased its staff to include a Contract Specialist, an Information Technology Specialist, a Small Business Policy Specialist and a Research Analyst. HUD has implemented innovative projects and tools utilizing the latest technologies that have and will continue to have a positive effect on the participation of WOSBs in departmental contracting activities. There are IT outreach sessions held regularly with IT small businesses to inform them of new procurement opportunities at HUD.

New Methodologies that challenge conventional procedures include the establishment of subcontracting policies that have resulted in an increase in contract dollars to small businesses. The HUD Procurement System (HPS) effectively tracks all contracting and subcontracting dollars awarded to small businesses. HUD has established a subcontracting goal of up to 40% of the total value of each contract and subsequent extensions, modifications and options. Contractors that are unable to meet the established goal must provide the rational for the proposed level of subcontracting. In accordance with the Federal Acquisition Regulation (FAR) at Part 19.702 and HUD's own federal acquisition regulation (HUDAR) at 2452.219–70, solicitations exceeding $500,000 that include HUDAR provision 2452.219–70, shall provide the maximum practicable subcontracting opportunities to small, small disadvantaged and women-owned businesses. Prior to award, each contract shall be evaluated on specific subcontracting goals and commitments to small businesses. These pioneering subcontracting policies also include subcontracting plans for General Services Administration schedule buys. There is a concentrated effort to conduct outreach with small businesses across the nation.

HUD OSDBU continuously performs at a level of professional excellence to serve our customers. HUD consistently formulates and implements written policies supporting small businesses and includes references to small businesses in standard operating procedures. HUD has designated a senior executive as the Director of the OSBDU who is responsible for implementing small business policy initiatives. Furthermore, HUD maintains an effective system to provide acknowledgement of procurement personnel that utilize 8(a) small businesses. HUD places a high priority on direct communications and outreach efforts; we utilize newsletters, facilitate trade show and marketplace presentations and conduct business assistance and training seminars. HUD is one of the most innovative governmental agencies and is constantly retrofitting its employment with the latest technologies to enhance service to small businesses. HUD constantly employs proactive strategies to increase opportunities for these businesses to serve as prime contractors and subcontractors. HUD has achieved phenomenal success in requiring prime contractors to establish measurable programs to increase subcontracting opportunities.

Publications

- Small Business resource Guide: *www.hud.gov:80/offices/osdbu/resource/guide.cfm.*
- Small Business Tips: *www.hud.gov:80/offices/osdbu/tips.cfm.*
- Forecast of Contracting Opportunities: *www.hud.gov/office/cpo/4cast.cfm.*

Seminars and Classes

- Outreach Calendar/Small Business Training: *www.hud.gov/groups/smallbusiness.cfm.*

WEB Based Compliance

- Brent Pick is HUD's webmaster and updates all contract compliance issues on the web. (303) 672–5281 ext. 1821 *Brent_Pick@hud.gov.*

Telephone Service

- (202) 708–1428, Office of Small and Disadvantaged Business Utilization HUD Headquarters, Room 3130.

Future Activities

- CD-Roms/Video.
- Online/E-mail Service.

On-Site Evaluation/Assistance

- Office of Small and Disadvantaged Business Utilization, A. Jo Baylor, Director: HUD—Headquarters 451 7th Street, SW., Room 3130, Washington, DC 20410; E-mail: *a.jo_baylor@hud.gov.*

Interior

Fish and Wildlife Service

- Compliance assistance Contact: *Susan_Wilkinson@fws.gov*.
- General compliance guidance: *http://pdm.fws.gov/sba/sbindex.html.*
- Compliance guidance for wildlife import and export license holders: *http://www.le.fws.gov/PublicBulletin.htm* or *http://www.le.fws.gov/inspectors.htm.*
- Non-retaliation policy: *http://policy.fws.gov/do142.html.*
- Outreach presentations for the import/export community: *http://www.le.fws.gov/inspectors.html* or Telephone: 703–358–1949.
- Courses on Conservation Grant Writing, Conservation Partnerships, Developing and Working with Friends Groups, and other topics: *http://training.fws.gov* or Telephone: 304–876–1600.
- Assistance for importers and exporters, taxidermists, guides, and outfitters: *http://www.le.fws.gov/inspectors.htm* or Telephone: 703–358–1949.
- FWS Publications online: *http://library.fws.gov/pubs3.html.*

Fish and Wildlife Service contact: Sara Prigan, Policy & Directives

Management Division, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, 4401 N. Fairfax Drive, Arlington, VA 22203. Telephone: 703–358–2508. Fax: 703–358–2269. E-mail: *Sara_Prigan@fws.gov*.

Minerals Management Service

• Information about regulations, Notices to Lessees, and Dear payor letters: *www.mms.gov* or copies available at local MMS offices.

• Training on how to report royalty revenue and related information: Available at various locations around the country.

• Workshops to explain more complex regulations: Available at various locations around the country.

Bureau of Land Management

• Oil and Gas Surface Operating Standards for Oil and Gas Development known as ''The Gold Book'': Available at BLM State and Field Offices.

Office of Surface Mining

• Information about regulations, directives, policy, agency reports, flyers, brochures, small operators assistance, etc.: *www.osm.gov.*

• Printable telephone directory, electronic telephone directory, e-mail directory; office locations: *www.osm.gov* and by e-mail from *getinfo@osmre.gov.*

• Telephone reference and referral services; answers to general reference questions; information on availability of OSM documents: *www.osm.gov* or by calling 303–844–1436 or by fax at 303–844–1545.

• Downloadable software tools that can be used for implementing the Surface Mining Law: *www.osm.gov.*

• The Applicant Violator System contains the history of permits and companies in the coal mining business, generally since 1977 Downloadable software: *www.avs.osmre.gov* or call 1–800–643–9748.

Bureau of Reclamation

• Statute, regulations, Reclamation Reform Act (RRA) Fact Sheets, RRA forms & instructions, and Status of Irrigation Districts List: *www.usbr.gov/rra.*

• Explanations of the most common RRA questions and issues in plain English: *www.usbr.gov/rra* and at the Reclamation District offices in all irrigation districts.

Department of the Interior Single Point of Contact: John Strylowski, U.S. Department of the Interior, MS 7229 MIB, Washington, DC 20240. Telephone: 202–208–3071. Fax: 202–219–2100. E-Mail: *john_strylowski@ios.doi.gov.*

Justice

Office of Small and Disadvantaged Business Utilization (OSDBU)

The Office of Small and Disadvantaged Business Utilization (OSDBU) strive to improve and increase the Department's performance in utilizing small, small disadvantage, small woman-owned and veteran-owned businesses as contractors and subcontractors. Our various bureaus spend approximately *two billion dollars a year in the private sector.* Currently, more than 42 percent of those dollars go to small businesses, with 10 to 15 percent going to minority-owned firms and 3 to 5 percent going to woman-owned companies.

The OSDBU Director and the Deputy Attorney General are committed to encouraging and assisting well-qualified and skillful small, minority, and woman-owned businesses seeking contracts with the Department of Justice. The acquisition function in the Justice Department has been assigned to each of our bureaus' contracting staffs, most of which are located in the metropolitan Washington, DC area. We have prepared several avenues to assist small and disadvantaged businesses in getting better acquainted with the requirements and procurement practices of the bureaus.

The Forecast of Contract Opportunities provides projected contract opportunities that may become available from the various DOJ bureaus during the specified fiscal year. The forecast information is divided by bureaus and lists opportunities that anticipated awards greater than or equal to $25,000.

The forecast information also includes the product/service with the North American Industry Classification System codes; the anticipated procurement release date by fiscal year quarter; applicable or proposed preference program set-aside; the government estimate; and the incumbent contractor if any.

Carefully review this listing and refer all questions about a proposed action to the listed contact. Questions about the forecast should be directed to the DOJ OSDBU staff on (202) 616–0521 or 1–800–345–3712.

Information on DOJ's initiatives and activities is available on the DOJ Small Business Web site: *http://www.usdoj.gov/jmd/osdbu.* This site links to the Small Business homepage, which provides extensive small business assistance information including registration for the monthly vendors outreach sessions which provides the opportunity for one-on-one meetings with small business specialist and contracting officers.

Seminars/Conferences/Outreach Sessions: *www.usdoj.osdbu.gov.*

OSDBU Contact: Joseph K. Bryan, Director, OSDBU, 1331 Penn Ave., NW., National Place Bld., Suite 1010, Washington, DC 20530. Telephone: 202–616–0521. Fax: 202–616–1717. E-Mail: *Joseph.k.bryan@usdoj.gov*.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

Publications of benefit or interest to ATF industry members and the general public (*i.e.*, firearms and explosives regulations, newsletters, rulings, press releases, statistics and State & local training courses, Federal law and regulations, State Laws and Published Ordinances, and **Federal Register** notices.)

• Theft/losses of explosives materials: 1–888–ATF–2662.

• Toll free for reports of gun related crimes and after hours theft/losses: 1–800–ATF–GUNS.

• Toll free for theft/losses of firearms: 1–800–800–3855.

• ATF Firearms and Explosives Compliance Web site: *www.atf.gov*.

The ATF provides various publications to our industry members as well as the general public. Some of the publications available either on ATF Web site or in hard copy, include manuals which provide ATF's regulatory requirements in a plain language format; informational brochures to help raise awareness of possible criminal activity (*i.e.*, Reporting theft of Explosives and Firearms, Arson incidents); and industry newsletters for all businesses regulated by ATF. Publications, brochures and forms are produced in quantities of 115,000 each for firearms and 12,000 for explosives, for distribution to the licensees, permittees, and to trade and research organizations and the press.

ATF hosts/participates in national, international, as well as regional/local conferences and meetings. In addition, ATF personnel are often invited by associations to attend their national conferences to give presentations on topics of interest to association members, and/or set up an exhibit booth. The ATF exhibit booth provides yet another venue through which industry members that attend these meetings, may ask questions or concerns regarding ATF policy or regulations.

ATF personnel have also been asked by industry associations as well as regulatory associations/agencies to participate on various panels. Recent topics on which the ATF has provided

our expertise include but are not limited to, Safe Explosives Act, Shot Show University, Annual Importers Conference.

There are a number of application forms and reports required by ATF, some of which are now available on ATF's Web site *www.aft.gov.*

ATF Contact: Mary Jo Hughes, Chief, FEA Services Division, Office of Firearms, Explosives and Arson, Bureau of Alcohol, Tobacco, Firearms and Explosives 650 Massachusetts Avenue, NW., Washington, DC 20226. Telephone: 202–927–8045. Fax: 202–927–7488.

Civil Rights Division (CRT)

CRT—Disability Rights Section (DRS)

• Home Page: *www.usdoj.gov/crt/ada/adahom1.htm.*

• Business Page: *http://www.usdoj.gov/crt/ada/business.htm.*

The home page provides information about the toll-free ADA Information Line, the Department's ADA enforcement activities, the ADA technical assistance program, certification of State and local building codes, proposed changes in ADA regulations and requirements, and the ADA mediation program. The home page also provides direct access to ADA regulations and technical assistance materials, Freedom of Information Act materials, links to the Department's press releases, and links to the other Federal agencies' Internet home pages that contain ADA information. The most recent addition to the ADA Home Page is the ADA Business Connection—a site that has been established to assist business entities to acquire the information necessary to enable them to comply with the ADA.

ADA Guide for Small Business: *http://www.usdoj.gov/crt/ada/smbudgd.pdf.*

ADA Information Line. DRS operates a toll-free ADA Information Line to provide information to the public about the requirements of the ADA and to distribute technical assistance publications to the public. Automated service is available 24 hours a day, seven days a week. In addition, the Information Line is staffed during business hours by disability rights specialists who respond to questions about the ADA. The ADA Information Line numbers are (800) 514–0301 (voice); (800) 514–0383 (TTY).

ADA Fax on Demand. The ADA Information Line Fax Delivery Service allows the public to obtain free ADA information by fax 24 hours a day, seven days a week. By calling the ADA Information Line, callers can select from among 32 different ADA technical assistance publications and receive the information, usually within minutes, directly on their fax machines or computer fax/modems.

ADA Information Line: 800–514–0301 (voice); 800–514–0383 (TTY)

ADA publications. DRS produces a range of technical assistance documents, including an ADA Guide for Small Businesses that has been published jointly with the Small Business Administration. A video is currently under production featuring Assistant Attorney General Ralph Boyd and DRS staff that will dispel common misunderstandings that small businesses have about the ADA.

ADA training. DRS provides ADA training at meetings nationwide; and conducts outreach to broad and targeted audiences that have included mayors, local Chambers of Commerce, and millions of businesses.

Requests for speakers and training should be placed through the ADA Information Line: 800–514–0301 (voice); 800–514–0383 (TTY)

ADA Mediation Program. The Department's ADA Mediation Program facilitates compliance by entities, including small businesses, using a voluntary alternative dispute resolution approach. Carried out through a partnership between the Federal government and the private sector, more than 450 professional mediators are available nationwide to mediate ADA cases.

David K. Flynn*, Chief, Appellate Section, P.O. Box 66078, Washington, DC 20035–6078. Telephone: 202–514–2195. Fax: 202–524–8490.

*(Please note that Mr. Flynn is *not* assigned either to the Disability Rights Section (DRS) or to the Office of Special Counsel (OSC). *General* small business inquiries for information or for assistance concerning compliance with matters within the areas of responsibility of DRS or OSC should be directed to the addresses and phone numbers in the respective sections.)

CRT—Office of Special Counsel for Unfair Immigration Related Employment Practices (OSC)

OSC's Web site has helpful information specifically designed for businesses. This site describes the legal obligations of employers to comply with the anti-discrimination provision of the Immigration and Nationality Act (INA) and provides information to assist compliance. *www.usdoj.gov/crt/osc.*

OSC has a national toll-free telephone line solely for the use of employers who wish to consult with OSC staff members about their compliance concerns. The telephone line is staffed by OSC attorneys and Equal Opportunity Specialists who promptly address employers' questions, providing them with immediate guidance. OSC staff often advise employers on how to avoid discrimination in the workplace, minimizing any future liability. Voice: 1–800–255–8155; TDD: 1–800–362–2735.

Based on information received from individuals calling this line, and OSC's prompt investigation of these cases, OSC often is able to bring early, efficient, cost-effective resolutions to employment disputes that might otherwise result in the filing of charges, the accumulation of potential back pay awards, or litigation expenses. These early interventions minimize the impact of statutory enforcement on small businesses. Voice: 1–800–255–7688 or (202) 616–5525; TDD: 1–800–237–2515.

OSC Employer Hotline. OSC also provides employers, where necessary, with training materials for their staff, including booklets, posters and educational videotapes, on how to ensure that they do not engage in discriminatory behavior. The employer hotline number is distributed with all of OSC's outreach materials for employers.

Voice: 1–800–255–8155; TDD: 1–800–362–2735; E-mail Address: *osccrt@usdoj.gov.*

Download Brochures and Booklets: *http://www.usdoj.gov/crt/osc/htm/outreach.htm.*

OSC Job Applicant or Employee Hotline. OSC takes part in numerous employer training sessions throughout the country, providing employers guidance on how they can comply with the antidiscrimination provisions of the immigration laws.

OSC Training Materials. OSC also provides employers, where necessary, with training materials for their staff, including booklets, posters and educational videotapes, on how to ensure that they do not engage in discriminatory behavior. The employer hotline number is distributed with all of OSC's outreach materials for employers.

Voice: 1–800–255–8155; TDD: 1–800–362–2735; E-mail Address: *osccrt@usdoj.gov.*

Download Brochures and Booklets: *http://www.usdoj.gov/crt/osc/htm/outreach.htm.*

OSC Compliance Assistance Education. OSC takes part in numerous employer training sessions throughout the country, providing employers guidance on how they can comply with the antidiscrimination provisions of the immigration laws.

Voice: 1–800–255–8155; TDD: 1–800–362–2735; E-mail Address: *osccrt@usdoj.gov.*

OSC Media outreach. OSC staff participate in outreach engagements with the media, such as radio call-in shows, that afford employers an opportunity to bring their concerns to OSC's attention. Voice: 1–800–255–8155; TDD: 1–800–362–2735; E-mail Address: *osccrt@usdoj.gov.*

OSC Grants. OSC provides grants to employer associations (such as chambers of commerce) to allow those organizations to conduct further compliance assistance among their members. March 5, 2003 Grant Announcement: *http://www.usdoj.gov/crt/osc/pdf/03-grants.pdf* List of Current Grantees Operating in FY 2003: *http://www.usdoj.gov/crt/osc/press/02grantpr.htm.*

OSC address and phone numbers: Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, Department of Justice, Post Office Box 27728, Washington, DC 20038–7728. Telephone: 202–616–5594.

OSC Employer Hotline: Voice: 1–800–255–8155, TDD: 1–800–362–2735.

Drug Enforcement Administration

Small Business Regulatory Fairness Advisory: www.DEAdiversion.usdoj.gov/pubs/fair_adviz.htm.

For Field Offices if they have any questions regarding DEA's regulations and policies. If they are a small business, they may contact the SBA's Office of the Ombudsman to comment on DEA's enforcement actions. This Advisory is also included in all revised and new manuals.

Seminars/Classes

- Chemical training for importers/exporters: *www.DEAdiversion.usdoj.gov/mtgs/dea_mtgs.html*
- Pharmaceutical Training Seminars for importers/exporters and manufacturers: *www.DEAdiversion.usdoj.gov/mtgs/dea_mtgs.html, www.DEAdiversion.usdoj.gov/quotas/index.html.*

Web-Based Compliance

- A wide variety of online forms: *http://www.DEAdiversion.usdoj.gov/online_forms.html.*

Onsite Evaluation/ Assistance

- List of local field offices: *www.DEAdiverison.usdoj.gov/offices_n_dirs/index.html.*

Unless otherwise listed above, requests for information or reports should be mailed to: Drug Enforcement Administration, Office of Diversion Control / ATTN: Washington, DC 20537.

DRS address and phone number: Disability Rights Section, Civil Rights Division, P.O. Box 66738, Washington, DC 20035–6738. Telephone: 202–307–0663. Fax: 202–307–1198.

ADA Information Line: 800–514–0301, 800–514–0383 (TTY).

Drug Enforcement Administration Contact (for regulatory and enforcement matters): Patricia Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone: 202–307–7297. Fax: 202–307–8570.

Justice Department contacts for Department wide matters (such as the Ombudsman's Reports to Congress) and other issues of general agency concern:

Kevin R. Jones, Deputy Assistant Attorney General, Office of Legal Policy, Department of Justice, Main Building, Room 7238, 950 Pennsylvania Avenue, NW., Washington, DC 20530. Telephone: 202–514–4604. Fax: 202–514–9112. E-mail: *Kevin.r.jones@usdoj.gov.*

Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, Main Building, Room 7236, 950 Pennsylvania Avenue, NW., Washington, DC 20530. Telephone: 202–514–8059. Fax: 202–514–9112. E-mail: *robert.hinchman@usdoj.gov.*

Justice Department contact for general public affairs inquiries: Barbara Comstock, Director, Office of Public Affairs, Main Building, Room 1248, 950 Pennsylvania Avenue, NW., Washington, DC 20530. Telephone: 202–514–2007. Fax: 202–513–5331.

Justice Department Single Point of Contact: Joseph K. Bryan, Director, OSDBU, 1331 Penn Ave. NW., National Place Bld., Suite 1010, Washington, DC 20530. Telephone: 202–616–0521. Fax: 202–616–1717. E-mail: *Joseph.k.bryan@usdoj.gov.*

Labor

The U.S. Department of Labor (DOL) is committed to significantly enhance its compliance assistance efforts. The goal of compliance assistance is to protect the wages, health benefits, retirement security, safety and health of America's workforce by preventing employment law violations. DOL has developed the following to ensure that employers and workers have access to clear and accurate information and assistance—when and where they need it, and in the format that suits them best.

Department of Labor Web Site

DOL's principal Web site—*www.dol.gov*—provides America's employers and workers with access to a wide range of services and employment and regulatory information. Easy access to DOL agencies' compliance assistance information and resources is available through DOL's Office of Compliance Assistance Policy Web site, *www.dol.gov/compliance.*

Elaws Advisors

The elaws Advisors (Employment Laws Assistance for Workers and Small Businesses) are Web-based, interactive tools that help individuals understand Federal employment laws. Each elaws Advisor mimics the interaction an individual would have with a DOL employment law expert by asking the appropriate questions and then providing answers based on the individuals responses. The newest elaws Advisor, the *FirstStep* Employment Law Advisor, helps employers simply and quickly determine which of the major employment laws administered by DOL apply to their business or organization and provides easy-to-access information about how to comply with each law's requirements. *www.dol.gov/elaws*

Toll-free Information Service

This Information Services is a central access point to information on a range of employment rules and issues. By calling 1–866–4–USA–DOL, individuals can find answers to questions about job loss, business closures, pay and leave, workplace safety and health, pension and health benefits, and reemployment rights for Veterans, National Guard members and Reservists. 1–866–4–USA–DOL (TTY: 1–877–889–5627)

SBREFA Toll-free line

Small businesses may contact DOL's Office of Small Business Programs (OSBP) directly with their compliance assistance or regulatory fairness questions by calling 1–888–9–SBREFA (1–888–972–7332).

E-Mail Response Service

DOL's coordinated e-mail response service allows employers and employees to ask questions about employment and regulatory issues electronically. By choosing from a list of topics or internal DOL agencies under the ''Contact Us'' section of the DOL Web site, users are ensured that their question will go to the appropriate office and that they will receive an answer in a timely manner.

Small Business Compliance Assistance Information Inventory

More than 300 publications are in this comprehensive list of DOL small business compliance assistance

publications. Copies are available by calling 1–888–9–SBREFA (1–888–972–7332)

Employment Law Guide

The Employment Law Guide describes DOL's main laws & regulations in plain language for employers needing introductory information to develop wage, benefit, safety & health, and nondiscrimination policies for their businesses. It is available online and in print, in English and Spanish. Copies are available free of charge by calling DOL's Toll-Free Information Service at 1–866–4–USA–DOL.

Wage and Hour Issues

The Employment Standards Administration, Wage & Hour Division (WHD) enforces the minimum wage, overtime and child labor provisions of the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), employment standards and worker protections provided in several non-immigrant worker programs of the Immigration and Nationality Act, and the prevailing wage requirements of the Davis-Bacon Act (DBA), the Service Contract Act (SCA) and related statutes.

WHD gives compliance assistance through its Web site, interactive elaws advisors (FLSA, FMLA), toll free phone service, email, printed materials, workshops and presentations.

- WHD on the Web: *www.wagehour.dol.gov.*
- WHD Contact Information: *www.dol.gov/esa/contacts/whd/america2.htm.*
- Telephone Number: 1–866–4USWAGE (1–866–487–9243).

Federal Contract Compliance

The Employment Standards Administration, Office of Federal Contract Compliance Programs (OFCCP) administers three equal employment opportunity programs that apply to Federal contractors and subcontractors: Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973 and affirmative action provisions of the Vietnam Era Veteran's Readjustment Assistance Act of 1974. OFCCP also shares authority for regulations requiring equal employment opportunity and affirmative actions in apprenticeship programs, Title I of the Americans with Disabilities Act, the Immigration Reform and Control Act and the Family and Medical Leave Act.

OFCCP gives compliance assistance through its Web site, interactive on-line advisors, email, toll-free telephone service, workshops and seminars.

- OFCCP on the Web: *www.dol.gov/esa/ofccp.*
- OFCCP Contact Information: *www.dol.gov/esa/contact/ofccp/ofcpkeyp.htm.*
- Telephone Number: 1–202–693–0101.

Retirement and Health Benefits

The Employee Benefits Security Administration (EBSA) assists employers and employee benefit plan practitioners in understanding and complying with the requirements of the Employee Retirement Income Security Act (ERISA) as it applies to administering employee pension and health benefit plans. EBSA promotes voluntary compliance through the Voluntary Fiduciary Correction Program and the Delinquent Filer Compliance Program and through strategic alliances with professional organizations and Federal, state and local governments.

EBSA gives compliance assistance through its Web site, printed materials, interactive on-line advisors, email, toll-free telephone service, workshops and seminars.

- EBSA on the Web: *http://www.dol/ebsa.*
- EBSA Contact Information for Electronic Inquiries: *www.askebsa.dol.gov.*
- Telephone Number: 1–866–444–3272.

Occupational Safety and Health

The Occupational Safety and Health Administration (OSHA) works to save lives, prevent injuries and protect the health and safety of America's workers. Nearly every worker in the U.S. comes under OSHA's jurisdiction as defined by the Occupational Safety and Health Act of 1970 (exceptions include miners, transportation workers, many public employees and the self-employed).

OSHA gives compliance assistance through its Web site, printed compliance guides, toll-free telephone service, e-mail and online interactive advisors. Free workplace consultations are available in every state to small businesses that need assistance in establishing safety and health programs and identifying and correcting workplace hazards. A network of OSHA Compliance Assistance Specialists in local offices provides tailored information and training to employers and employees. The Voluntary Protection Programs (VPP) and other strategic partnerships help to recognize and build upon successful practices in occupational safety and health management.

- OSHA on the Web: *www.osha.gov.*
- Telephone: 1–800–321–OSHA (1–800–321–6742).
- OSHA Contact Information: *www.osha.gov/html/oshdir.html*, (202) 693–2317.

Mine Safety and Health

The Mine Safety and Health Administration (MSHA) works to protect the health and safety of workers in America's mines by working cooperatively with industry, labor and other Federal and state agencies. MSHA's responsibilities are outlined in the Federal Mine Safety and Health Act of 1977, commonly called the Mine Act, which applies to all mining and mineral processing operations in the U.S. regardless of size, number of employees or method of extraction.

MSHA gives compliance assistance to mine operators and workers through its Web site and by direct contact of agency enforcement, technical support, and education and training field personnel. MSHA established its Small Mine Office to address safety and health needs of small mines specifically and to enable small mines to comply with safety and health laws as readily as medium- or large-sized mines. The Small Mine Office focuses exclusively on compliance assistance and conducts no enforcement activities.

- MSHA on the Web: *www.msha.gov.*
- MSHA Contact Information: *www.msha.gov/contactmsha/contactmsha.htm.*
- Telephone Number: 1–202–693–9400.

Veterans' Employment and Training

The Veterans' Employment and Training Service (VETS) helps Veterans, Reservists and National Guard members effectively prepare for and secure employment and to protect their employment—and training related rights. VETS offers employment, training assistance, and services to eligible veterans, including homeless veterans, through grants to states, local governments and non-profit organizations. VETS also administers the Uniformed Services Employment and Reemployment Rights Act (USERRA) and provides information about veterans' rights under the Veterans Employment Opportunities Act (VEOA) and the Federal Contract Program, which requires Federal contractors to take affirmative action to hire and promote qualified veterans.

VETS delivers compliance assistance through its Web site, printed materials, e-mail and interactive online elaws advisors.

• VETS on the Web: *www.dol.gov/vets.*

• VETS Contact Information: *www.dol.gov/vets/aboutvets/contacts/main.htm.*

• Telephone Number: 1–202–693–4700.

Labor-Management Standards

The Employment Standards Administration, Office of Labor-Management Standards (OLMS) administers and enforces most of the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959. OLMS also administers provisions of the Civil Service Reform Act of 1978 and the Foreign Service Act of 1980 relating to standards of conduct for Federal employee unions. OLMS also administers employee protection provisions in the Federal mass transit law.

OLMS gives compliance assistance through its Web site, publications, e-mail, workshops and other group presentations. An OLMS Web site—*www.union-reports.dol.gov*—lets users view and print union annual financial reports. It features a powerful union data search system that can produce lists tailored to users' needs. OLMS recently expanded the site to let users view and print reports by employers and labor relations consultants.

• OLMS on the Web: *www.olms.dol.gov.*

• OLMS Contact Information: *www.dol.gov/esa/contacts/olms/lmskeyp.htm.*

• Telephone: 1–202–693–0123 (union member rights); 1–202–693–0126 (transit employee protections).

Small Business Paperwork Relief Act of 2002

DOL point of contact for collection of information and control of paperwork: Barbara Bingham, Director, Office of Compliance Assistance Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Rm. S2312, Washington, DC 20210. Telephone: 202–693–5080.

Small Business Regulatory Enforcement Fairness Act of 1996

DOL ombudsman to small businesses including responding to inquiries or complaints: Joe Lira, Director, Office of Small Business Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Rm. C–2318, Washington, DC 20210. Telephone: 202–693–6460

State

• Compliance Assistance Resources: *www.state.gov/m/a/sdbu.*

• Compliance assistance: *http://www.state.gov/m/a/sdbu/c9124.htm.*

The Office of Small and Disadvantaged Business Utilization (OSDBU) webpage links to a number of federal agencies: *www.osdbu.gov.*

• Publications: *A Guide to Doing Business with State Department. Forecast of Contract Opportunities* and others are available electronically on the webpage.

• Workshops: State/OSDBU presents a number of workshops throughout the year as part of its outreach efforts. These workshops include ''in reach'' to our State Department customers and cover topics related to the Small Business Program. State/OSDBU staff members are often invited to participate on workshops or panels hosted by small business trade associations, Chambers of Commerce or other groups representing the interests of small business.

• Training Sessions: We sponsor training sessions for State Department employees. Examples: Small Business Program training module at Foreign Service Institute's GSO Course. Participation in regional GSO Conferences hosted by State's Office of Logistics Management. (*e.g.*, New Delhi, India and Gaborone, Botswana in 2002). Also participate in State Department events designed for private industry such as Bureau of Overseas Buildings Operation's Industry Day). State hosts an annual Prime Contractor training session. The morning is a refresher for large primes on regulations and reporting requirements governing subcontracting. The afternoon session is for networking between large primes and ''hot prospect'' small businesses.

• Small Business Fairs: State/OSDBU hosts an annual Small Business Fair, which features ''common usage'' items typically purchased using the government credit card or GSA schedule. In November 2002, we hosted a Veteran-owned Small Business Conference. We are also co-hosts of quarterly Information Technology Expositions, for which the Bureau of Information Resource Management takes the lead. We co-sponsor with other federal OSDBUs an annual conference each April, at Show Place Arena in Upper Marlboro, Maryland. This year's event, held on April 23rd, attracted over 1500 participants from all over the country. State/OSDBU also supports Small Business Fairs hosted by other federal agencies, by small business trade associations, or by members of Congress. During FY–2002 to date, we have participated in over 30 such events.

State Department Single Point of Contact: Gregory K.O. Davis, Regulatory Coordinator, A/RPS/DIR, 1800 G Street, NW., Suite 2400, SA–22, Washington, DC 20522–2201. Telephone: 202–312–9607. Fax: 202–312–9603. Intranet: *http://arpsdir.a.state.gov.* Internet: *http://foia.state.gov/famdir/fam/fam.asp.*

Transportation

Web-based Compliance: Office of Small & Disadvantaged Business Utilization, *www.osdbuweb.dot.gov.*

Drug and Alcohol Policy and Compliance: *www.dot.gov/ost/dapc.*

Telephone: Small Business Customer Service Center, 1–800–532–1169.

Office of Drug Enforcement and Program Compliance (DEPC): 1–800–225–3784 (fax on demand service).

Seminars/Classes: Transportation Marketplace Conferences, *www.osdbuweb.dot.gov.*

Breath Alcohol Technician Training and Screening, Test Technician Training Manuals, Transportation Safety Institute, Marti Bludworth, DTI–100, 400 Will Rogers Parkway, Suite 205, Oklahoma City, OK 73108. (405) 949–0336, x 323.

Online/e-mail Service News By E-mail: *www.osdbuweb.dot.gov.*

Central Docket Management System: *www.dms.dot.gov.*

Office of Aviation Analysis: *www.ostpxweb.dot.gov/aviation.*

Drug and Alcohol Policy and Compliance Program Guidance Material: *www.dot.gov/ost/dapc/prog_guidance.html.*

Online purchases and payments: *www.Diy.dot.gov.*

Publications: The Transportation Link Newsletter; Marketing Information Package Fax on Demand Catalog; *www.osdbuweb.dot.gov/,* 1–800–532–1169.

Federal Highway Administration

Web-based Compliance: *www.fhwa.dot.gov.*

Publications: Citizens Guide to Transportation Decision-making; National Dialogue on Operations; An Overview of Transportation and Environmental Justice; Transportation Conformity, A Basic Guide for State and Local Officials, Revised 2000; A Guide to Metropolitan Planning Under ISTEA, How the Pieces Fit Together; Federal Size Regulations for Commercial Motor Vehicles; and Bridge Formula Weights (all the above are available at the Web site).

Federal Aviation Administration

Web-based Compliance: *www.faa.gov/avr/arm/sbrefa.htm.*

E-mail Service: *9–AWA–SBREFA@faa.gov.*

Telephone Service: 1–888–551–1594, 1–800–255–1111 (Safety Hotline).

On-site Assistance: Charlene Brown, 800 Independence Ave., SW., Room 808, Washington, DC 20591.

Bureau of Transportation Statistics

Web-based Compliance: *www.bts.gov/mcs/desc.html; www.fmcsa.dot.gov/factsfigs/ets/index/html* (*See* Table of Contents Financial and Operating Statistics); and *www.bts.gov/oai.sources* (Office of Airline Information).

E-mail Service: *answers@bts.gov.*

Telephone Service: 1–800–853–1351 (General Information), 1–202–366–4888 (public data from air carrier reports).

Publications: Worksheet for Calculating Carrier Classification (Motor Carriers of Passengers); Worksheet for Calculating Carrier Classification (Motor Carriers of Property); Information Sheet for Form QFR and many others available through the Web site.

On-site Assistance: Bureau of Transportation Statistics, 400 7th Street, SW, Room 3103, Washington, DC, L'Enfant Plaza Metrorail Station (7th and D Street exit).

Reports Reference Facility (public data from air carrier reports), 400 7th Street, SW, Room 4201, Washington, DC.

Federal Railroad Administration

Web-based Compliance: *www.fra.dot.gov.*

Telephone Service: 202–493–6395 (Office of Policy & Program Development).

Federal Transit Administration

Web-based Compliance: *www.fta.dot.gov.*

Telephone Service: 1–800–527–8279 (National Transit Resource Center).

Publications: *www.fta.dot.gov/library.*

Federal Motor Carrier Safety Administration

Web-based Compliance: *www.fmcsa.dot.gov* and *www.1–888–dot–saft.com.*

Telephone Service: 1–800–832–5660 (Information Line), 1–800–368–7328 (Consumer complaint hotline), 202–366–9805 (Licensing Information), 202–385–2423 (Insurance Information).

National Highway Traffic Safety Administration

Web-based compliance: *www.nhtsa.dot.gov.*

Telephone Service: 1–800–DASH–2–DOT (1–800–327–4236).

Publications: *www.nhtsa.dot.gov/people/outreach/media/Publications/Indes.cfm* (Online publications library).

Maritime Administration

Web-based Compliance: *www.marad.dot.gov.*

Telephone Service: 202–366–4610 (Cargo Preference Program), 202–366–8888 (Intermodal Development), 202–366–8887 (Environmental Activities), 202–366–1931 (Maritech Program), 202–366–5744 (Maritime Loan Guarantee), 202–366–1931 (National Maritime Resource and Education Center), 202–366–4610 (Ocean Freight Differential), 202–366–2324 (Operating Differential Subsidy), 202–366–2625 (Ship Operation Cooperative Program), 202–366–2400 (War Risk Insurance Program), 202–366–5821 (Vessel Transfer Program).

Publications: *www.marad.dot.gov/publications* (online library).

Research and Special Programs Administration

Web-based Compliance: *www.rspa.dot.gov; www.hazmat.dot.gov;* and *www.ops.dot.gov.*

Telephone Service: 202–366–4595 (Office of Pipeline Safety), 1–800–HMR–4922 or 202–366–4488 (Hazardous Materials Information Center), 202–366–4900 (Office of Hazardous Materials Initiatives and Training), 202–366–4484 (Hazardous Materials Incident Reports).

Fax Service: 1–800–467–4922 (Hazardous Materials fax on demand), 202–366–4566 (Office of Pipeline Safety fax).

E-mail Service *Grants@rspa.dot.gov, Infocntr@rspa.dot.gov, Register@rspa.dot.gov, Training@rspa.dot.gov, Welisten@rspa.dot.gov.*

Seminars/Classes: Transportation Safety Institute (Compliance Inspection Comprehensive Operator Qualification, OPS); Risk Management Conference/Public Meeting Proceedings (Hazmat and OPS) *www.tsi.dot.gov.*

Publications: Pipeline Risk Management Newsletter, Oil Pollution Act Newsletter, Hazmat Safety Alerts.

Department of Transportation Single Point of Contact: Daniel P. Matthews, Chief Information Officer, U.S. Department of Transportation 400 Seventh Street, SW., Washington, DC 20590.

Telephone: 202–366–9201.

Fax: 202–366–7373, *http://cio.ost.dot.gov/contact/index.html*

Treasury

Office of Small Business Development

www.treas.gov/sba.

Our Office of Small Business Development has a robust small business program to ensure both small business prime and subcontracting opportunities. The following examples, initiatives, and partnerships demonstrate Treasury's commitment:

Outreach Efforts

- Maintain a vigorous small business procurement Web site *(www.treas.gov/sba).*
- Treasury's annual forecast of contract opportunities and small business subcontracting opportunities directory are posted on the small business Web site, and we make hard copies available upon request and at all of the small business outreach events we attend.
- Our highly successful Treasury Monthly Vendor Outreach Session program allows small businesses to meet with Treasury bureau small business specialists. We also include special guests representing other federal agencies or prime contractors to discuss procurement opportunities on a pre-arranged 15 minute basis in one central location. Our schedule is published a year in advance to allow small business to plan their marketing efforts.
- Treasury's outreach efforts also include two Treasury IT Program Manager Vendor Outreach Session events each year (this event is modeled after our Monthly Vendor Outreach Session).
- In Treasury's capacity as Chair of the OSDBU Directors Interagency Council outreach committee, we have taken the lead on the government-wide Annual OSDBU Directors Procurement Conference held in April of each year. This event is also posted on our Web site.
- We have also focused our efforts in targeted outreach on a nationwide basis, such as trade fair participation, seminar presentations, panel program discussions on specific topics, and one-on-one counseling.
- The OSBD has built a solid relationship with a variety of small business trade associations. On April 12, 2000, Treasury entered into an historic Memorandum of Understanding with 17 small, minority, and women-owned small business trade associations to increase the ability of small minority and women-owned small businesses to compete for Treasury procurements in industries reflecting under-representation while maintaining participation in industries with successful utilization.
- A list of the Top 25 Treasury purchases is published, listed by industry classification over a five year period to provide an opportunity for ''targeted outreach'.
- Treasury implemented a mentor-protégé pilot program. We are the only agency in which protégés may be small businesses of all types—SB, SDB, WOSB, HUBZSB, SDVOSB, and VOSB.

Treasury Single Point of Contact: Jody Falvey, Acting Director, Office of Small Business Development, U. S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Mail Code: 1310G/400W, Washington, DC 20220. Telephone: 202–622–2826. Fax: 202–622–4963. E-mail: *Jody.Falvey@do.treas.gov.*

Internal Revenue Service

The IRS Compliance Assistance Resources are those that help taxpayers comply with Federal tax law. IRS makes every effort to inform, assist and educate taxpayers.

Compliance Assistance Program Description. The Small Business/Self-Employed (SB/SE) operating division is structured to best serve taxpayers whose needs are more complex than wage and investment taxpayers. This division serves about 7 million small businesses, including corporations and partnerships with assets of $10 million or less. While many face the same tax issues as large corporations, they often do not have tax professionals on staff. Tax compliance issues often stem from a lack of understanding of tax law requirements, inadequate accounting practices and resources and cash flow problems.

The approximately 33 million self-employed and supplemental income earners are similar to wage and investment taxpayers, but their tax issues are often more complex. They have substantially higher incomes and file twice the number of forms and schedules, requiring more time to prepare taxes, a greater reliance on paid tax preparers and more IRS expertise.

Headquarters

The SB/SE Taxpayer Education and Communication (TEC) educates and informs SB/SE taxpayers and representatives about their tax obligations by developing educational products and services focused on customer needs and by providing top quality pre-filing services to help taxpayers understand and comply with the tax laws.

TEC headquarters provides leadership and direction in the design, development, and delivery of services for small business stakeholders. Activities of headquarters staff include formulating short and long-range program policies, strategies, and objectives to educate and inform stakeholders. TEC headquarters also coordinates program activities with other top level IRS executives to prepare Service-wide policies, address cross-functional issues, develop strategies, and ensure consistency of approach. TEC collaborates with major stakeholders to identify, develop and maintain leveraged partnerships through negotiated voluntary agreements.

Partnership Outreach develops and delivers educational products and services focused on customer needs, and leverages partnerships with major stakeholders through negotiated agreements to assist in the delivery of these products and services. The primary focus is on proactively identifying emerging trends, common errors, and common areas of non-compliance, and developing products, services and programs to address these issues and encourage compliance.

Business Marketing Services plans and executes the promotion and distribution of all traditional SB/SE products and services to TEC employees, key stakeholders, and targeted taxpayer audiences in order to satisfy external customer needs and internal organizational objectives. Business Marketing Services is also focused on developing strategies for increasing usage of electronic products and implementing them effectively for not only the small business community but also the more uniquely emerging self-employed taxpayer segment.

Office of Taxpayer Burden Reduction provides direction and leadership for burden reduction by focusing on six areas:

- Simplifying forms and publications;
- Streamlining internal policies and procedures;
- Promoting less burdensome rulings, regulations and law;
- Assisting in the development of a burden reduction measurement methodology;
- Partnering with internal and external stakeholders to more effectively and efficiently identifying and address burden reduction initiatives; and
- Chairing the Taxpayer Burden Reduction Council, which develops cross-divisional proposals for burden reduction and coordinates and sponsors burden reduction efforts throughout the Service.

Field Organization

A geographically dispersed field force provides top quality pre-filing service via educational products, services, agreements, and programs that help them understand and comply with applicable tax laws. The field force also supports filing activities, including walk-in sites and R-mail sites, during peak filing season and other times as needed.

IRS Area Distribution Centers (ADCs) serve as distribution points for tax products. Tax products can be ordered free of charge from the ADCs at 1–800–829–2437.

Telephone Assistance Through Customer Account Service

- Tax Assistance—1–800–829–1040.
- Forms, Form Instructions and Publications—1–800–829–3676.
- Small Business and Specialty Taxes—1–800–829–4933.
- Compliance Assistance Products—1–800–829–2765.
- Tax Refund Hotline—1–800–829–1954.
- Recorded Tax Information (Tele-Tax) 24 hour service—1–800–829–4477.
- Assistance for the Hearing Impaired—1–800–829–4059.
- To suggest improvements to IRS Procedures—1–888–912–1227.
- Taxpayer Advocate Service Hotline—1–877–777–4778.

Taxpayers who need more information than is provided by Customer Account Service via the toll-free number are directed to Referral mail at *http://www.irs.gov/help/index.html.* This site was created to answer general tax law questions.

Web Sites/Internet

- *http://www.irs.gov*—IRS Web site.
- *http://www.irs.gov/smallbiz*—IRS Small Business Web site.
- *http://www.irs.gov/smallbiz*—Visits to the Internet on IRS.gov have grown from 1,470 visits in April 2001 to 694,514 visits as of March 2003. The SB/SE Internet site has had 4,690,252 visits from April 2001 to March 2003.
- *http://www.irs.gov/newsroom/index.html*—News.
- *http://www.irs.gov/taxpros/content/0,,id=103728,00.html*—Plain Language Regulations.
- Tax Centers on Partners' Web site—IRS has developed 10 partnerships by establishing Tax Center Web sites on the partners' sites. Tax Centers have comprehensive links customized to the partners' needs and organized by topic to various parts of irs.gov. For example: Tax Center Web site—*http://sba.gov/bi/irstaxcenter.doc.*

Training/Workshops/Seminars

Practitioner Institutes

Practitioner Institutes serve as part of an overall practitioner education curriculum, which includes Tax Talk Today, the Nationwide Tax Forum, local liaison meetings, etc. They provide a much-needed venue for delivering the IRS message to about 25,000 direct participants, which prepare countless tax returns for the public each year. The Tax Practitioner Institutes have been going on for nearly 60 years in some

parts of the U.S. Over the years the institutes have evolved into forums that deal with a large variety of income tax issues of interest to the entire tax practitioner community.

Leveraged Small Business Workshop Student/Instructor Materials

IRS has adopted three models for fully leveraged small business workshops that our partners can offer as a client service to help the smallest and newest businesses:

- Partner organizations organize, market and staff live workshops using IRS materials or their own.
- Partnership organizations link to IRS' on-line small business workshop products and market them to their members.
- Partner organizations distribute Pub. 3700, A Virtual Small Business workshop CD–ROM (November 2001) and Pub. 3693, Introduction to Federal Taxes for Small Business-Self Employed: Getting Your Business Off to a Successful Start CD–ROM (Sept 2001) to their members and/or let them know how to order it. Pub. 3700 has Spanish and Mandarin closed captions.

Tax Talk Today is a monthly program about current tax issues and policies sponsored in part by the IRS. It provides unbiased insight and information about current tax and business issues critical to tax professionals. All of the programs feature a panel discussion, questions and answers from viewers, current tax news stories, and tax teasers. The format allows viewers to ask questions via e-mail, fax or telephone. Web site: *http://www.taxtalktoday.tv/*

Products Developed Specifically for Small Business

The role of the SB/SE TEC division is to address compliance through education and marketing to our Small Businesses and Self-Employed taxpayers. IRS develops educational products and services focused on customer needs to provide top quality pre-filing services to help taxpayers and stakeholders understand and comply with the tax laws. Products can be ordered online or by calling 1–800–829–3676. Web site: *http://www.irs.gov/businesses/small/article/0,,id=101169,00.html*

Forums

- Payroll/Practitioner Forums are an extension of the bi-monthly National Public Liaison (NPL) meetings. The Forums provide an opportunity for the subject matter experts (SMEs) and payroll/practitioner representatives to ''work through'' the issues raised from suggested topics on the agenda.
- Small Business Forums are held with external small business groups and associations. The primary focus of these meetings is to provide an avenue for an open exchange of information with external stakeholders. The forums also give them an opportunity to share feedback concerns on behalf of their small business members. Monthly schedule: *http://www.irs.gov/businesses/small/article/0,,id=106266,00.html*
- IRS Nationwide Tax Forums are one of the IRS's largest and most effective outreach programs to the tax professional community. During July, August, and September, the IRS will present six tax forums nationwide, including seminars, a trade show, and an awards banquet. These forums are designed to give tax professionals valuable information to improve their business. Web site: *http://www.irs.gov/taxpros/article/0,,id=97192,00.html*

Tax Assistance Centers

Your one-stop resource for face-to-face tax help. These sites provide assistance in the preparation of returns as well as resolution of less complex accounts and compliance issues for taxpayers that require face-to-face assistance. The locations and hours of operation are available at Web site: *http://www.irs.gov/localcontacts/index.html.*

IRS also offers free income tax assistance for low income, disabled, elderly and non-English speaking taxpayers through the Volunteer Income Tax Assistance program (VITA) and Tax Counseling for the Elderly program (TCE). A free tax preparation site can be located by calling Customer Account Services at 1–800–829–1040.

Non-retaliation Policy

The IRS has a zero tolerance policy for retaliation and has had a written non-retaliation policy since 1998. On July 22, 1999, the President signed the landmark ''IRS Restructuring and Reform Act (RRA) of 1998. The IRS has taken a number of steps to prevent retaliation and has put policies in place to deal with it effectively, should it occur. Sec. 1203 of RRA'98 provides for the mandatory termination of IRS employees under various specific instances of misconduct and provides a number of key taxpayer safeguards. This serves as a strong deterrent to any employee who might consider taking retaliatory action. Web site: *http://www.irs.gov/individuals/article/0,,id=97348,00.html.*

Taxpayer Advocate Service (TAS)

TAS is an independent organization that helps taxpayers resolve problems with the IRS and recommend changes that will prevent tax problems. The Taxpayer Advocate Service Office of Systemic Advocacy provides oversight and direction for identifying, an analyzing systemic, procedural and operations problems. This office announced on March 13, 2003 the development of a new internet-based program for submitting systemic problems and suggestions to improve tax administration. Web site: *http://www.irs.gov/advocate/index.html*

Taxpayer Education and Communication (TEC) Outreach Products

TEC Outreach Products can be ordered online or by calling 1–800–829–3676 and viewed at: *http://www.irs.gov/businesses/small/article/0,,id=101169,00.html.*

Small Business One-Stop Resource *http://www.irs.gov/businesses/small/index.html*

Points of Contact for IRS

Single point of contact for *Compliance Assistance Resources* IRS Web site: *http://www.irs.gov/businesses/index.html.*

Single point of contact for Paperwork Relief Act of 2002: Michael Chesman, Director, Office of Taxpayer Burden Reduction, Telephone: 202–283–7673. *Michael.R.Chesman@irs.gov.*

Veterans Affairs

Consistent with SBREFA, compliance assistance is funneled through the two Web sites above to register complaints or ask for assistance. Most other VA offices will ensure that appropriate certifications are published in VA regulations that they do not affect small business entities. Small businesses can comment on VA regulations during the informal rulemaking process, after they are published as proposed rules in the **Federal Register**.

- Office of Small and Disadvantaged Business Utilization: *http://www.va.gov/osdbu*
- Center for Veterans Enterprise: *http://www.vetbiz.gov*

Veterans Affairs Single Point of Contact: Ramsey Alexander, Jr., Senior Procurement Analyst, OSDBU (00SB), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, Telephone: 202–565–8133, Toll Free: 800–949–8156. E-mail: *ramsey.alexander@mail.va.gov.*

Agency for International Development

U.S. Agency for International Development (USAID) Single Point of Contact: Marilyn S. Marton, Director, Office of Small & Disadvantaged Business Utilization (OSDBU), U.S. Agency for International Development, 1300 Pennsylvania Avenue, NW., Washington, DC 20523–7800, Telephone: 202–712–1500, Fax: 202–23165–3056. E-Mail: *mmarton@usaid.gov*.

Commodity Futures Trading Commission

The Commodity Exchange Act (CEA) establishes a regulatory scheme for the commodity futures and options industry that generally depends on industry self-regulation with federal oversight by the Commodity Futures Trading Commission (CFTC). The National Futures Association (NFA) and other self-regulatory organizations (SROs) generally conduct routine compliance reviews in the futures industry. The NFA is responsible for most of the compliance reviews of retail sales practices in the industry and in this regard, it has a program for the voluntary review of promotional materials. NFA's Internet Web site includes a ''Contact NFA'' section providing telephone numbers for its general Information Center and specific compliance contact personnel (*www.nfa.futures.org/contact/indexContact.asp*), as well as various published compliance information (*www.nfa.futures.org/compliance/publications.aspm*).

The CFTC provides compliance guidance to small businesses through several methods. The CFTC's Internet Web site includes a ''Law & Regulation'' section (*www.cftc.gov/cftc/cftclawreg.htm*) providing general information concerning the requirements of the CEA, CFTC Orders, and staff exemptive, no-action and interpretive letters. This section links to a specific ''Compliance'' page (*www.cftc.gov/tm/tmcompliance.htm*) that contains guidance to assist firms and individuals who conduct commodity futures and options business with customers in complying with the CEA provisions and CFTC Regulations applicable to their activities. Informal guidance also is available through the ''Publications'' section of the CFTC Web site (*www.cftc.gov/cftc/cftcreports.htm*), which contains ''CFTC Backgrounders'' and other brochures providing information of use to small businesses. Staff members in the CFTC's various divisions offer informal assistance and guidance in response to telephone inquiries and e-mail messages submitted through the CFTC Web site. These include:

- *The Division of Clearing and Intermediary Oversight* [(202) 418–5430]—inquiries concerning rules governing protection of customer funds, trading and sales practice issues, registration and disclosure issues, and financial requirements.
- *The Division of Market Oversight* [(202) 418–5260]—Inquiries concerning market and product design, market surveillance, position reporting, and trade practice issues.
- *The Office of General Counsel* [(202) 418–5120]—assigns an ''Attorney of the Day'' to answer telephone inquiries about the CEA and CFTC Regulations.
- *The Division of Enforcement*—provides notice to small businesses about their right to comment on CFTC actions pursuant to the Small Business Regulatory and Enforcement Fairness Act (SBREFA) whenever it makes a request to provide information voluntarily or pursuant to subpoena or the inspection provisions of the CEA. The CFTC and its staff are committed to ensuring that small businesses are provided a non-retaliatory environment in which to exercise their right to comment.

The CFTC has a small business liaison located in the Office of External Affairs. When the agency receives inquiries related to small business, such as communications from the office of the National Ombudsman, they are forwarded to the liaison. The liaison also works with the Ombudsman to provide information and resolve any issues or complaints received by the Ombudsman's office.

Commodity Futures Trading Commission Single Point of Contact: Terry S. Arbit, Associate General Counsel, (Legislative Affairs), Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, Telephone: 202–418–5257. E-mail: *tarbit@cftc.gov*.

Consumer Product Safety Commission

- *http://www.cpsc.gov/businfo*, 1–800–638–CPSC
- CPSC offers publications, web based compliance and on-line / e-mail service, including, but not limited to *A Small Business Guide to the U.S. CPSC http://www.cpsc.gov/businfo/smbudgde.html*

Consumer Product Safety Commission Single Point of Contact: Thomas W. Murr, Jr., Deputy Executive Director, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, Telephone: 301–504–7907. E-mail: *tmurr@cpsc.gov*.

DC Court Services & Offender Supervision

DC Court Services & Offender Supervision Single Point of Contact: Jim Williams, Associate Director, Management and Administration, 633 Indiana Avenue, NW., Suite 1323, Washington, DC 20004–2902, Telephone: 202–220–5707. E-mail: *jim.williams@csosa.gov*.

Environmental Protection Agency

EPA currently has over 100 initiatives, activities, and services directed at small business needs. EPA efforts include a toll-free hotline; newsletters; Web sites; e-mail listserv; information alerts on emerging regulatory issues; industry sector specific guides directed at providing information on specific industry processes, Federal regulatory requirements, compliance history and pollution prevention information; expert systems; voluntary programs; and training programs.

EPA's Small Business Ombudsman (SBO) provides a ''gateway'' and dedicated support for small businesses to reach EPA compliance assistance resources offered by EPA, the states and other sources. The SBO answers technical and regulatory questions on a toll-free hotline, provides more than 350 free EPA publications, develops compliance assistance tools, and gives direct access to regulatory assistance on a comprehensive Web site. It publishes the SBO newsletter twice a year to report important EPA activities and give timely alerts to small businesses and interested service providers on EPA actions. The SBO acts as the focal point and provides multi-level support and coordination for an extensive national network of small business assistance programs, and works with small businesses, service providers, and state and regional officials to address small business needs.

The Small Business Gateway is a Web site that links to EPA's assistance programs for small business. *http://www.epa.gov/smallbusiness/*

EPA also partners with industry representatives and others on sector-specific Compliance Assistance Centers. The centers support the agriculture, automotive service and repair, chemical manufacturing, metal finishing, paints and coatings, printed-wiring-board manufacturing, printing, transportation, construction, auto recycling, and border compliance sectors by providing tools such as checklists, plain language guides, and technical information to help small businesses understand their regulatory requirements.

Compliance Assistance Centers

- Agriculture *http://www.epa.gov/agriculture/*
- Auto Service Industry *http://www.ccar-greenlink.org/*
- Chemicals *http://www.chemalliance.org/*
- Local Government *http://www.lgean.org/*
- Metal Finishing *http://www.nmfrc.org/*
- Paints and Coatings *http://www.paintcenter.org/*
- Printed Wiring Boards *http://www.pwbrc.org/*
- Printing *http://www.pneac.org/*
- Transportation *http://www.transource.org/*

EPA also manages a National Compliance Assistance Clearinghouse as a guide to compliance information on the Internet. This site gives comprehensive links to EPA environmental compliance assistance materials, as well as materials from all 50 states and other organizations. The Clearinghouse contains many features allowing small businesses to interact directly with EPA and improve communication and collaboration among compliance assistance providers.

EPA's Small Business Compliance Policy promotes environmental compliance among small businesses by providing incentives to discover and make good faith efforts to correct violations. Software is also available to assist in certain reporting requirements. The ''Toxics Release Inventory—Made Easy'' (TRI-ME) software guides users through the entire Toxics Release Inventory reporting process from start to finish.

Information on EPA's initiatives and activities is available on the EPA Small Business Ombudsman Web site *http://www.epa.gov/sbo.* This site links to the Small Business Environmental Homepage *http://www.smallbiz-enviroweb.org/,* which provides extensive small business assistance information. EPA National Asbestos & Small Business hotline for inquiries on environmental regulations may be reached via a toll free number (1–800–368–5888).

Environmental Protection Agency Single Point of Contact: Karen V. Brown, Director, Small Business Division, EPA Small Business Ombudsman (SBPRA point of contact), 1200 Pennsylvania Avenue NW., MC1808T, Washington, DC 20460, Telephone: 202–566–2816, Fax: 202–566–0954. E-mail: *brown.karen@epa.gov.*

Export-Import Bank

The Export-Import Bank of the United States (Ex-Im Bank) is the official export credit agency of the United States. Ex-Im Bank's mission is to assist in financing the export of U.S. goods and services to international markets. Ex-Im Bank enables U.S. companies—large and small—to turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy.

Ex-Im Bank does not compete with private sector lenders but provides export financing products that fill gaps in trade financing. We assume credit and country risks that the private sector is unable or unwilling to accept. We also help to level the playing field for U.S. exporters by matching the financing that other governments provide to their exporters.

Ex-Im Bank provides working capital guarantees (pre-export financing); export credit insurance (post-export financing); and loan guarantees and direct loans (buyer financing). No transaction is too large or too small. On average, 85% of our transactions directly benefit U.S. small businesses.

With nearly 70 years of experience, Ex-Im Bank has supported more than $400 billion of U.S. exports, primarily to developing markets worldwide.

- Export-Import Bank Mission Statement: *http://www.exim.gov/about/mission.html*
- Pre-Export Financing To Help U.S. Exporters Maximize Borrowing Potential: *http://www.exim.gov/products/work_cap.html*
- Increase Your Export Sales While Minimizing Risks: *http://www.exim.gov/products/insurance/index.html*
- Special Initiatives for Underserved Small Businesses: *http://www.exim.gov/products/special/underserved.html*

Export-Import Bank Single Point of Contact: Letitia Kress, Export-Import Bank, 811 Vermont Avenue, NW., Washington, DC 20571, Telephone: 202–565–3613. E-mail: *letitia.kress@exim.gov.*

Equal Employment Opportunity Commission

Small Business Initiative

EEOC has developed a Small Business Initiative (SBI) to improve customer service and expand outreach, education, and technical assistance to the small business community. The SBI aims to promote voluntary compliance by building a more cooperative and collaborative relationship with the small and mid-sized business community and to address EEO concerns expressed by small business owners. The main components of the SBI include:

Small Business Liaisons: Every EEOC District office has a Small Business Liaison available to employers who have questions about the laws enforced by EEOC or about compliance with those laws in specific workplace situations. Information on contacting Small Business Liaisons can be found at *www.eeoc.gov/small/contacteeoc.html.*

Small Business Web Page: www.eeoc.gov/small—While the information on this page applies to all employers, it has been specifically designed for small businesses which may not have a human resources department or a specialized EEO staff. The page is designed to make it easier for small businesses to comply with the anti-discrimination laws and help them in their dealings with the EEOC.

No-Cost Outreach and Education Programs

EEOC's outreach and education programs provide information about the employment discrimination laws enforced by EEOC and the EEOC charge/complaint process. EEOC representatives are available at no cost to make presentations and participate in meetings with employers and their representative groups. For example, EEOC hosts regular meetings with employers and employer groups, such as stakeholder advisory councils to get feedback on legal and operational issues; provides speakers and trainers for conferences, seminars, workshops and classroom presentations and for regular scheduled meetings of organizations, professional associations, etc.; distributes information materials on EEO laws and represent the Commission at events, such as job fairs, conventions and conferences; and participates in media presentations—including radio and TV interviews, as well as cyber-chats.

A list of outreach coordinators and contact information can be found at *www.eeoc.gov/outreach/coordinators.html.*

Fee-Based Training and Technical Assistance

EEOC presents a wide variety of fee-based training and technical assistance programs throughout the country geared to employers in the private sector, including small businesses, as well as federal, state and local government agencies. Training and technical assistance available includes:

Technical Assistance Program Seminars (TAPS): Seminars emphasize how to prevent EEO problems from developing and how to resolve

discrimination complaints effectively when they do arise. Real-life case studies and examples often are used to show how equal employment requirements apply to specific employment practices. Updates on important legal developments, Commission policy and procedures and vital information about EEOC's latest initiatives and alternative dispute resolution program are discussed. Specialized topics will differ by seminar and may include in-depth sessions on issues such as: sexual and racial harassment; complex ADA issues, including the ADA's relation to other workplace laws; and religious and national origin discrimination. Whenever practicable, small group breakouts, question and answer periods, interactive formats and informal discussions are used in the seminars, which enable participants to receive answers to specific EEO questions.

Customer Specific Training Programs: EEOC staff provide specialized training on various employment discrimination topics for employers at their work site or at an organization's meeting or training events.

Training Products: EEOC has developed training course materials on Workplace Harassment Issues: How to Identify, Prevent and Eliminate Workplace Harassment, which are available for employers who want to deliver their own training. Additional training courses on the Americans with Disabilities Act and other topics are under development and will be available in the future.

Information on Training Contacts can be found at *www.eeoc.gov/outreach/coordinators.html.*

Publications

- EEOC fact sheets, information materials and brochures and other publications are available at no cost. They can be ordered by calling 1–800–669–3362 (voice) or 1–800–800–3302 (TTY) or through the Internet at *www.eeoc.gov/publications.html*
- Training and Technical Assistance Materials available for direct purchase—A seven volume set of resource manuals provides a comprehensive and invaluable EEO library on employment discrimination issues. Each volume contains training exercises, practical guidance and copies of EEOC's most important policy interpretations, including information concerning recent important Supreme Court decisions affecting Federal EEO law. The volumes are compiled and written by legal experts and training professionals from the EEOC, the Federal agency responsible for enforcing and interpreting the country's various Federal employment discrimination laws. The entire series is updated annually to reflect changes in law, court decisions and new EEOC guidance. These materials are useful for employers, human resource/EEO professionals, attorneys, labor representatives and others interested in EEO matters in the private, federal and state and local government sectors. These manuals can be ordered through *www.eeoc.gov/outreach.manuals.html*

Web Page

- EEOC's web page—*www.eeoc.gov*—provides easy-to-use information on federal laws prohibiting job discrimination, including a question and answer format. The site also provides copies of news/press releases, laws enforced by EEOC, regulations, and policy guidance issued by EEOC, as well as information on outreach, training and technical assistance and publications.
- The site provides links to other federal labor law enforcement agencies and other federal agencies which may have information/resources useful to employers.
- EEOC has also worked with many federal agencies, such as the Small Business Administration, Office of the National Ombudsman, to ensure EEOC's web page is available as a link.

New Freedom Initiative

EEOC is working closely with small business organizations and disability groups to conduct a series of free outreach and education events for small businesses as part of President Bush's New Freedom Initiative. EEOC expects to continue putting on these events throughout fiscal years 2003 and 2004. EEOC has also produced *The Americans with Disabilities Act: A Primer for Small Business,* which is a practical, reader-friendly handbook for the small business person outlining the employment provisions of the ADA as they relate to both employees and job applicants. Information on the workshops is available at *www.eeoc.gov/initiatives/nfi/index.html.* A copy of the Primer is available at *www.eeoc.gov/ada/adahandbook.html.*

Guidance Letters

EEOC's Office of Legal Counsel issues approximately 90 significant guidance letters a year explaining the employment discrimination statutes to employers and other stakeholders.

Equal Employment Opportunity Commission Single Point of Contact: Laura Hinton, National Outreach Coordinator, Office of Field Programs, EEOC, 1801 L Street, NW., Washington, DC 20507, Telephone: 202–663–4811. E-mail: *laura.hinton@eeoc.gov.*

Federal Communications Commission

The Federal Communications Commission (FCC) is an independent U.S. government agency, directly responsible to Congress. The FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC's jurisdiction covers the 50 states, the District of Columbia, and U.S. possessions. The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for 5-year terms, except when filling an unexpired term. The President designates one of the Commissioners to serve as Chairperson. Only three Commissioners may be members of the same political party. None of them can have a financial interest in any Commission-related business.

The Commission staff is organized by function. There are six operating Bureaus and ten Staff Offices. The Bureaus' responsibilities include: processing applications for licenses and other filings; analyzing complaints; conducting investigations; developing and implementing regulatory programs; and taking part in hearings. The Offices provide support services. Even though the Bureaus and Offices have their individual functions, they regularly join forces and share expertise in addressing Commission issues. The six operating Bureaus are: Consumer and Governmental Affairs, Enforcement, International, Media, Wireless Telecommunications, and Wireline Competition.

Concerning FCC small entity enforcement and compliance issues, the primary sources for information are the Enforcement Bureau, which enforces the Communications Act as well as the Commission's rules, orders and authorizations, and the Office of Communications Business Opportunities (OCBO), which provides advice to the Commission on issues and policies concerning telecommunications opportunities for small, minority and women-owned communications businesses.

E-Mail, Small Entity Contact Point: *ocboinfo@fcc.gov*

Telephone Numbers:

- Office of Communications Business Opportunities (OCBO): 202–418–0990
- FCC Consumer Center, Toll-Free Telephone Service: 1–888-CALL–FCC (1–888–225–5322)

• TTY, FCC Consumer Center, Toll-Free Telephone Service: 1–888–TELL–FCC (1–888–835–5322)

• Enforcement Bureau: 202–418–7450

Web site Locations:

• FCC Homepage and News Location: *http://www.fcc.gov*

• Office of Communications Business Opportunities (OCBO): *http://www.fcc.gov/ocbo/*

• Consumer Alerts and Factsheets—Directory: *http://www.fcc.gov/cgb/information_directory.htm*

• Small Entity Compliance Guides: *http://www.fcc.gov/ocbo/guides.html*

• Current Major Initiatives: *http://www.fcc.gov/initiatives.html*

• Consumer and Governmental Affairs Bureau: *http://www.fcc.gov/cgb/*

• Enforcement Bureau: *http://www.fcc.gov/eb/*

Federal Communications Commission Single Point of Contact: U.S. Federal Communication Commission, Office of Communications Business Opportunities, 445 12th Street, SW., Telephone: 202–418–0990. E-mail: *ocboinfo@fcc.gov.*

Federal Deposit Insurance Corporation

Office of the Ombudsman: *http://www.fdic.gov/regulations/resources/ombudsman.html.*

Federal Deposit Insurance Corporation Single Point of Contact: Edward F. Gerber, Associate Ombudsman, 550 Seventeenth Street, NW., PA–1730–2122, Washington, DC 20429, Telephone: 202–942–3869, Fax: 202–942–3401, E-mail: *egerber@fdic.gov.*

Federal Energy Regulatory Commission

Federal Energy Regulatory Commission Single Point of Contact: Thomas Russo, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: 202–502–8004, E-mail: *thomas.russo@ferc.gov.*

Federal Maritime Commission

Overview

The purpose of this guidance is to assist drafters of Federal Maritime Commission (''FMC'' or ''Commission'') rules in appropriately implementing the requirements of the Regulatory Flexibility Act (''RFA''), as amended by the Small Business Regulatory Enforcement Fairness Act (''SBREFA''). In general, SBREFA amended the RFA to establish certain formal procedural and analytical requirements (described below) for rules the agency may develop which have the potential to impose a significant economic impact on a substantial number of small entities. If a rule will impose significant economic impact on a substantial number of small entities, a more formal analysis of the potential adverse economic impacts on small entities must be prepared. Additionally, Executive Order 13272 of August 13, 2002 (''EO 13272''), requires agencies to issue and publish written procedures and policies for use in considering the potential impact of draft rules on small entities.

This guidance is not a binding Commission procedural rule. In determining and mitigating impacts on small entities, the FMC anticipates that there may be some situations in which agency staff and management must exercise considerable judgment. Nevertheless, we intend this guidance to provide an analytic and sequential structure that should be sufficient for most rulemakings. This guidance will be published on the Commission's Internet Web site (*http://www.fmc.gov*) for informational purposes.

The purpose of RFA/SBREFA is ''to fit regulatory and informational requirements to the scale of the businesses, organizations and governmental jurisdictions subject to the regulation.'' To achieve this objective, agencies are required to ''solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' RFA/SBREFA does not require an agency necessarily to minimize a rule's impact on small entities if there are legal, policy, factual or other reasons for not doing so. RFA/SBREFA requires only that an agency determine, to the extent feasible, the rule's economic impact on small entities, explore regulatory options for reducing any significant economic impact on a substantial number of such entities, and explain its ultimate choice of regulatory approach.

Since its enactment, RFA has required every federal agency to prepare a regulatory flexibility analysis for any rule for which the agency is required to issue a notice of proposed rulemaking under the Administrative Procedure Act (''APA'') or any other statute, unless the agency certifies that the rule ''will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' When SBREFA became law in 1996, the FMC developed procedures and guidelines to implement the applicable statutory requirements. The guidelines are being updated below to ensure continuing compliance with RFA/SBREFA requirements, as well as EO 13272.

In general, RFA/SBREFA requirements will apply to the FMC's rules subject to the notice-and-comment rulemaking requirements under the APA or any other statute. Exempt from the RFA requirement regarding a regulatory flexibility analysis or certification are Commission actions that are not rules (*e.g.*, orders or adjudications), and rules that the Commission is not required by statute to propose before promulgating.

RFA/SBREFA Preliminary Analysis: Assessing the Impact on Small Entities

This part describes the procedures to follow for determining whether a regulatory flexibility analysis or certification of no significant economic impact on a substantial number of entities should be prepared for a proposed or final rule. It is a six-step process.

1. Is the rule subject to notice-and-comment rulemaking requirements?

As mentioned earlier, most, if not all, FMC proposed and final rules will be subject to notice-and-comment and therefore subject to RFA/SBREFA.

2. What types of entities will be subject to the rule's requirement?

The Commission has adopted small business standards pursuant to the North American Industrial Classification System (''NAICS'') published by the Executive Office of the President, Office of Management and Budget. The staff has identified the following NAICS categories and codes defined by the Small Business Administration (''SBA'') that fall within the Commission's regulatory jurisdiction:

483111 Deep Sea Foreign Transport of Freight—Vessel Operating Common Carriers (''VOCCs'')

483112 Deep Sea Transportation of Passengers—Passenger Vessel Operators (''PVOs'')

488320 Marine Cargo Handling—Marine Terminal Operators (''MTOs'')

488510 Arrangement of Transportation of Freight and Cargo—Ocean Transportation Intermediaries (''OTIs'')

Categories 483111 and 483112 are evaluated by the SBA according to their number of employees. The SBA has determined that if such a business establishment has less than 500 employees, it qualifies as a small business for SBA purposes. Business establishments in categories 488320 and 488510 are evaluated by their annual receipts in millions of dollars. In these categories, SBA determines that business establishments with annual

receipts (gross annual revenues) of less than $21.5 million are small businesses. The Commission will use SBA's determinations in its review of the impact of its regulatory undertakings on small businesses.

3. What types of small entities, if any, are subject to the rule's requirements?

VOCCs, PVOs, and MTOs generally are very large companies with far in excess of 500 employees, in the case of VOCCs and PVOs, and $21.5 million in gross revenues, in the case of MTOs. These companies, as well as conferences or associations of such companies, generally are represented by retained counsel. They frequently raise informal, complex issues, and the Commission exerts considerable time and effort responding to them. Such entities are not the intended small business beneficiaries of SBREFA. OTIs, on the other hand, will be considered small businesses by the Commission.

Therefore, the Commission makes a refutable presumption that VOCCs, PVOs and MTOs are not small businesses encompassed within the programs and policies mandated by SBREFA. Nevertheless, a VOCC, PVO, or MTO that falls under SBA guidelines and seeks to be treated as a small business for Commission regulatory purposes may submit a request for such treatment to the Commission, along with payroll or gross annual revenue evidence, as applicable, to substantiate its claim and rebut the presumption.

4. What if no small entities are affected by the rule?

If a proposed rule does not affect any small entity (based on the definition of small entity provided above) RFA authorizes the Commission's Chairman to make a negative certification with respect to the rulemaking. This will be published in the **Federal Register** and be accompanied by the factual basis for certification as prepared by the originating Bureau/Office. This certification is subject to judicial review.

At the proposed rule stage, the affected parties have an opportunity to petition the Commission to be treated as small entities. If no such requests are received, the Chairman makes the negative certification in the final rule. If requests are received, the originating Bureau/Office, in conjunction with the Bureau of Trade Analysis (''BTA''), must determine if the petitioning entities should be treated as small businesses. If the originating Bureau/Office and BTA determine that these entities should, in fact, be treated as small businesses, the analysis set forth in step 5 will be conducted.

5. If small businesses are affected, is there a significant impact on a substantial number?

If a proposed rule is expected to have an effect on one or more small entities, a threshold analysis will be initiated by BTA with the assistance of the originating Bureau/Office. The threshold analysis is conducted to determine the extent of the impact and the number of small entities that would be affected by the proposed rule. It has been determined by the Commission that collection and maintenance of current financial data on every entity regulated by the FMC would cause undue cost and burden on the entities. Therefore, the threshold analysis is based on extrapolation of data and information from current economic trends and statistics, and the Commission's industry expertise. The results or findings of each threshold analysis are evaluated on a case-by-case basis to determine whether the proposed rule will have a significant impact on a substantial number of small businesses. In addition, any comments received on the proposed rule once it has been published in the **Federal Register** would be taken into consideration.

If it is determined that the proposed rule will not have a significant impact on a substantial number of small entities, a negative certification by the Commission's Chairman may be made. The certification should be published and explained in the supplementary information section of the proposed and final rules and supported in the rulemaking record as appropriate. The originating Office/Bureau, working with BTA as necessary, prepares a memorandum containing its analyses and explaining the negative certification. No further analysis is required to support the certification, unless the agency receives comments on the proposed rule's certification that raise issues about the basis of its analysis.

6. What if the rule would have a significant impact on a substantial number of small entities?

The primary purpose of the Initial and Final Regulatory Flexibility Analyses (''IRFA/FRFA'') is to identify and consider regulatory alternatives ''which minimize any significant economic impact of the proposed [or final] rule on small entities.'' (Sections 603 and 604 of RFA, emphasis added.) Therefore, if the threshold analysis shows that a proposed rule would have a significant impact on a substantial number of small businesses, the FMC must take the following steps:

1. Assure that small entities have been given an opportunity to participate in the rulemaking through various possible techniques. The originating Bureau/Office will implement one of the following or possible additional, measures:

a. State in an advance notice prior to issuance of the proposed rulemaking that the rule may have a significant economic effect on a substantial number of small entities;

b. Publish a general notice of the proposed rulemaking in publications that small entities are likely to receive;

c. Directly notify small entities about the rule; or

d. Hold ''open conference or public hearings'' about the rule.

2. Prior to publishing the proposed rule, the Commission will notify SBA (and the Office of Information and Regulatory Affairs at the Office of Management and Budget (''OMB'') as required by EO 12866).

3. Complete an IRFA, and publish it with the proposed rule. The IRFA, prepared by the originating Bureau/Office and BTA, must contain:

a. Reasons why the Commission is considering the action—this currently is in the preamble to all proposed regulations.

b. The objectives and legal basis for the proposed rule—this currently is included in a proposed rule.

c. The kind and number of small entities to which the rule will apply—to the extent possible, the originating Bureau/Office describes the industry and economic sector in total and its small and large entity segments, and explains any existing dynamics, such as trends in employment.

d. The projected recording, record keeping, and other compliance requirements of the proposed rule—this description should include an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for the preparation of the report or record. A cost analysis should describe each item and estimate the costs, comparing large and small entities. It should distinguish the initial costs from recurring or operating costs. This information may be available from the paperwork burden analysis prepared under the requirements of the Paperwork Reduction Act.

e. Identify all federal rules that may duplicate, overlap, or conflict with the proposed rule—given the Commission's specific regulatory responsibility, it is extremely unlikely that any of its rules will duplicate, overlap, or conflict with the rules of other agencies. Should the situation arise, however, the

Commission would need to include information for regulated entities on other rules governing the same activities. In some instances, the existence of relevant rules of other agencies will be known to the originating Bureau/Office. When legal research is required, it will be done by the Bureau of Enforcement (''BOE'').

4. The FMC then must produce an FRFA with the final rule. This analysis, prepared by the originating Bureau/Office and BTA, must contain the comments, if any, of SBA. It also must contain:

a. A succinct statement of the need for and objectives of the rule;

b. A summary of significant issues raised by public comments in response to the initial regulatory flexibility analysis, and a summary of the originating Bureau/Office's assessment of such comments;

c. The Commission's written response to any written comments submitted by SBA, unless the Chairman certifies that the public interest is not served thereby.

d. A description and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

e. A description of the projected reporting, record keeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for the preparation of the report record; and,

f. A description of the steps the FMC has taken to minimize the significant economic impacts on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule, and the reasons for rejecting each of the other viable alternatives.

Small Entity Compliance Guide

If a final regulatory flexibility analysis is necessary, a compliance guide also must be created. Each rule promulgated by the Commission that significantly affects a substantial number of small businesses will include a ''compliance guide'' that facilitates their compliance with applicable requirements. This guide will be drafted by the originating Bureau/Office.

Periodic Review

SBREFA requires that any promulgated rules that have or will have a significant economic impact on a substantial number of small entities be reviewed periodically. There currently is one Commission rule which falls under this category. The agency conducted an IRFA and FRFA for Docket No. 98–28, *Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries.* The Commission is revising Form FMC–18, which is used in the licensing process to collect information about OTI applicants, and also is planning for an electronically-submitted version. The Commission will review the impact of the involved rule in conjunction with that effort.

• FMC Policy and Procedures Regarding Proper considerations of Small Entities in Rulemaking: *http://www.fmc.gov/FMC%20Policy%20on%20Rulemakings.htm.*

Federal Maritime Commission Single Point of Contact: Joseph Farrell, Director, Office of Consumer Complaints, Federal Maritime Commission 800 N. Capitol Street NW., Washington, DC 20573, Telephone: 202–523–5807, Fax: 202–257–0059, E-mail: *josephf@fmc.gov.*

Federal Reserve Board

Procurement (Companies wishing to conduct business with the Board): Carlos Gutierrez, Small Business Procurement Liaison, 20th and C Streets, NW., M/S 128, Washington, DC 20551, Telephone: 202–452–2458, E-mail: *Carlos.Gutierrez@frb.gov.*

General Financial Information for Small Businesses: General Community Development information *www.federalreserve.gov/community.htm.* A Guide to Business Credit for Women, Minorities, and Small Businesses *www.federalreserve.gov/community.htm.*

Federal Reserve Regulatory Reporting Forms: Current Reporting Forms *www.federalreserve.gov/boarddocs/reportforms/default.cfm.* Reporting Forms Under Review *www.federalreserve.gov/boarddocs/reportforms/review.cfm.*

Banking and Regulatory Information: General Banking and Regulatory information *www.federalreserve.gov/banknreg.htm.* Regulations (PDF files) www.federalreserve.gov/regulations/default.htm. Supervision & Regulation Letters (SR Letters) *www.federalreserve.gov/boarddocs/srletters/.*

Federal Reserve Board Publications Department: Publications available free-of-charge on-line *www.federalreserve.gov/publications.htm.* Publications available for order (on-line order form and information) *www.federalreserve.gov/pubs/order.htm.* Telephone: 202–452–3245, Fax: 202–728–5886, 20th and C Streets, NW., Publications Services, M/S127, Washington, DC 20551.

News and Events: General News and Events, including: testimonies and speeches; press releases; and services (e-mail notification for press releases and other unscheduled postings; personal digital assistant wireless service for press releases; and e-mail notification for testimony and speeches). *www.federalreserve.gov/newsevents.htm.*

Federal Reserve Board Single Point of Contact: Cindy Ayouch, Chief, Financial Reports section, 20th and C Streets, NW., M/S 41, Washington, DC 20551 Telephone: 202–452–3829. Fax: 202–728–5856. E-mail: *Cynthia.M.Ayouch@frb.gov.* General Federal Reserve Public Web site *www.federalreserve.gov.*

Federal Trade Commission

The FTC offers a broad array of resources to aid small businesses in understanding their obligations under the laws and regulations administered by the Commission. The FTC offers general information in a variety of forms to address issues and questions that small businesses frequently encounter. Such guidance usually will satisfy the needs of small businesses for guidance as to their obligations.

For example, the FTC issues many types of publications designed to explain how small businesses and others can conduct their affairs in compliance with the laws and regulations administered by the FTC. These include materials specifically directed to businesses, such as (1) compliance guides explaining the requirements of specific FTC rules in a non-technical manner; (2) industry guides addressing common compliance issues under the Federal Trade Commission Act, as applied to particular industries or particular practices; (3) guidelines and policy statements explaining the application of antitrust laws to particular practices or industries. These materials frequently contain specific examples and illustrative fact patterns that show how the agency would apply the law to a particular set of facts.

The FTC holds public workshops, conferences and other forums to discuss specific topics, which often include compliance concerns. Also, FTC staff members and Commissioners frequently give speeches and conduct programs geared to explaining statutory and regulatory requirements and to answering attendees' questions. Where the topics are of particular interest to small business, these speeches may

involve appearances before groups representing small-business interests.

Other sources of information include full texts of FTC-administered statutes and rules, advisory opinions issued by the Commission or its staff, texts of speeches and testimony, and information on enforcement actions. The FTC also produces and disseminates numerous print and broadcast materials that, while directed to consumers, can benefit small businesses by identifying the practices that generate consumer protection issues between businesses and their customers and explaining how they should be handled.

These materials and information are readily available to small businesses through a variety of sources, including:

Through the FTC's Web site *www.ftc.gov*, and from links at *www.business.gov*, *www.firstgov.gov*, and *www.sba.gov/yourgovt/federal.html*.

Directly from the FTC, Room H–130, 600 Pennsylvania Ave. NW., Washington, DC 20580, or call (toll-free) 877–FTC–HELP.

Additional FTC Guides:

- How to Comply With The Children's Online Privacy Protection Rule, *http://www.ftc.gov/bcp/conline/pubs/buspubs/coppa.pdf*, *http://www.ftc.gov/bcp/conline/pubs/buspubs/coppa.htm.*
- Frequently Asked Advertising Questions: A Guide for Small Business *http://www.ftc.gov/bcp/conline/pubs/buspubs/ad-faqs.htm.*

Where the sources of general information are insufficient to provide the needed guidance or assistance, an FTC staff member may provide specific, informal advice or arrange for a more formal response. Small businesses may make inquiries of the Commission by various means. Inquiries can be informal and the business need not even identify itself. The FTC also has procedures for providing, where appropriate, either a staff advisory opinion or, in specified circumstances, a Commission advisory opinion. It is generally most effective to discuss the issue with a staff person before deciding whether to seek a formal advisory opinion.

Federal Trade Commission Points of Contact: Inquiries regarding consumer protection issues may be made to the FTC, Room H–130, 600 Pennsylvania Ave. NW., Washington, DC 20580; telephone (toll-free) 1–877–FTC–HELP (1–877–382–4357).

Inquiries regarding competition issues may be made to the Office of Policy and Evaluation, Bureau of Competition, Federal Trade Commission, Washington, DC 20580; telephone (202) 326–3300; fax (202) 326–2884.

Inquiries may also be directed to The Office of the Secretary, Federal Trade Commission, Washington, DC 20580, Telephone: 202–326–2515, Fax: 202–326–2496; Businesses may also contact any of the FTC's regional offices.

Merit Systems Protection Board

Merit Systems Protection Board Single Point of Contact: Richard A. Dorr, Merit Systems Protection Board, 1615 M Street NW., Suite 500, Washington, DC 20036, Telephone: 202–653–6772 ext. 1113, Fax: 202–653–7821. E-mail: *richard.dorr@mspb.gov.*

National Aeronautics and Space Administration

Compliance Assistance Resources

The Office of Small and Disadvantaged Business Utilization (OSDBU) promotes the utilization of small, disadvantaged and women-owned businesses in compliance with Federal laws, regulations, and policies. We assist such firms in obtaining contracts and subcontracts with NASA and its prime contractors. The OSDBU also facilitates the participation of small businesses in NASA's technology transfer and commercialization activities. Our objective is not only to ensure that small businesses are integrated seamlessly into the aerospace industrial base of the country, but that they can contribute to the performance of NASA missions. NASA supports a non-retaliation policy against small businesses as stated in NASA Policy Directive 5101.32 for the Ombudsman program.

Small businesses seeking work with NASA are directed to our Web site *http://osdbu.nasa.gov*. Activities in support of small businesses are listed with information on how to get involved in obtaining contracts and subcontracts. Request for Proposals open for bid can be reviewed on the Internet at *http://procurement.nasa.gov*.

Description of Program

To get the highest return on investment, the NASA OSDBU has designed, implemented, and facilitated user-friendly programs and initiatives. This ensures the full integration of capable and high-quality small businesses into the competitive base of contractors from which NASA regularly purchases products and services. In addition, the OSDBU has an outreach effort to communicate with its target small business constituents, as well as an in-reach program to educate NASA technical, procurement, and administrative personnel about programs and policies. The OSDBU also disseminates information about its programs through conferences, forums, training and development programs, counseling, promotional materials, and the Internet. A free three-day course called Training and Development for Small Businesses in Advanced Technologies (TADSBAT) acquaints companies with the NASA culture. This course is held four times a year at different locations nationally. In addition, two forums were developed to seek high-technology firms capable of participating in the Agency's most complex programs. The Aerospace Technology Small Disadvantaged Forum is conducted twice a year at two of the aeronautics Field Centers where three to five high-tech SDBs are selected to give presentations to senior level technical managers. From the forum's inception in 1993 through FY 2001, more than $85 million have been awarded to some of the presenters. A similar format is used for the Semi-annual Science Forums for Small Businesses. The Science Forums create a ''high-level marketing opportunity'' for selected small businesses to present their capabilities to earth science personnel at the Goddard Space Flight Center and to space science personnel at The Jet Propulsion Laboratory. Since the inception of this program in 1997, over $47 million in contracts and subcontracts have been awarded to participants.

As NASA's premier initiative, the Mentor-Protégé Program is designed to encourage prime contractors to assist disadvantaged companies in expanding their technical capabilities where such firms are underrepresented in the market. Prime contractors receive a variety of incentives during the source selection process, plus award fee increments during the period of the contract, if performed successfully. To spur small businesses to actively pursue opportunities for commercializing NASA technology, the OSDBU, in conjunction with the Minority Owned Business Technology Transfer Consortium (MBTTC) puts on seminars throughout the year. Companies learn about the NASA Commercialization Technology Network, how to identify technologies and work with researchers and scientists, how to apply for licensing agreements, and how to find financing sources.

''Socioeconomic Procurement as a Business Imperative'' is a one-day course given four times a year at different NASA Centers to a cross-section of the Agency's technical, procurement, and administrative

personnel. The course emphasizes the value-added benefit of utilizing diverse small businesses (in addition to being in compliance with laws and regulations that require it). On its own initiative, NASA has established a one percent goal as a percent of total contract value awarded yearly to Historically Black Colleges and Universities and other minority educational institutions. NASA is promoting the integration of this underutilized national resource.

To enhance the competitive advantage of small businesses in the national and world marketplace NASA has promoted the international quality management standard, ISO 9000. Since 1996, NASA has conducted seminars at major small business conferences on how to get certified. The NASA OSDBU staff became the first Federal headquarters office to become certified. The OSDBU wants to ensure that small businesses are aware of the fundamentals of an effective teaming agreement with large prime contractors. Seminars are taught by the Assistant Administrator for Small Business and are designed to enable small businesses to understand the legal structure of written teaming agreements, as well as the factors to consider when choosing a potential teaming partner. The NASA Minority Business Resource Advisory Committee (MBRAC) was organized to include executive members from disadvantaged companies who could advise the Administrator on how to increase small business involvement in NASA and remove regulatory obstacles to that end. Recommendations have been made and implemented in the areas of procurement source criteria, contract fee structure, contracting goals, and the review of subcontracting plans. The NASA Prime Contractor Roundtable was designed to facilitate an exchange between NASA and its prime contractors, mainly on how to increase the use of small businesses in their respective subcontracting programs. NASA's Assistant Administrator for Small Business is a board member of the World Association of Small and Medium Enterprises, an affiliated organization to the United Nations. Through this association, NASA is able to advise American small businesses on the advantages of competing in the world marketplace.

National Aeronautics and Space Administration Single Point of Contact: Contact the Office of Small and Disadvantaged Business Utilization by phone at 202–358–2088 or fax at 202–358–3261, NASA Headquarters in Washington, DC. If the inquiry pertains to one of our field centers, refer to the Web site listed above, which contains a listing of Small Business Specialists at each of our ten procuring activities. The Agency Small Business Ombudsman is Ralph C. Thomas, III, Assistant Administrator for Small and Disadvantaged Business Utilization. His e-mail address is *ralph.thomas@hq.nasa.gov*. Mailing address: NASA HQ, 300 E Street, SW., Washington, DC 20546.

National Archives and Records Administration

The National Archives and Records Administration (NARA) ensures, for citizens and Federal officials, ready access to essential evidence that documents the rights of American citizens, the actions of Federal officials, and the national experience. It establishes policies and procedures for managing U.S. Government records and assists Federal agencies in documenting their activities, administering records management programs, scheduling records, and retiring noncurrent records. NARA accessions, arranges, describes, preserves, and provides access to the essential documentation of the three branches of Government; manages the Presidential Libraries system; and publishes the laws, regulations, and Presidential and other public documents. It also assists the Information Security Oversight Office, which manages Federal classification and declassification policies, and the National Historical Publications and Records Commission, which makes grants nationwide to help nonprofit organizations identify, preserve, and provide access to materials that document American history.

See www.archives.gov for information on the National Archives and Records Administration's programs and activities. One resource for small businesses is NARA's Office of the Federal Register (*see http://www.archives.gov/federal_register/index.html*). That office provides ready access to the official text of Federal laws, Presidential documents, administrative regulations and notices, and descriptions of Federal organizations, programs and activities.

National Archives and Records Administration Single Point of Contact: Adrienne Thomas, Small & Disadvantaged Business Utilization and Senior Acquisition Official, National Archives and Records Administration, 8601 Adelphi Rd Suite 4100, College Park, MD 20470–6001, Telephone: 301–837–3050. E-mail: *adrienne.thomas@nara.gov*.

National Commission on Libraries and Information Science

National Commission on Libraries and Information Science Single Point of Contact: Robert S. Willard, Executive Director, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005–3552, Telephone: 202–606–9204, Fax: 202–606–9203. E-mail: *bwillard@nclis.gov*.

National Credit Union Administration

National Credit Union Administration Single Point of Contact: The single point of contact for each federal credit union is the assigned NCUA credit union examiner. Other points of contact are accessible through the NCUA Web site and by telephone: *www.ncua.gov,* Telephone: 703–518–6300.

National Endowment for the Humanities

National Endowment for the Humanities Single Point of Contact: Susan G. Daisey, Director, Office of Grant Management, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 311, Washington, DC 20506, Telephone: 202–606–8494, Fax: 2020–606–8633. E-mail: *sdaisey@neh.gov*.

National Indian Gaming Commission

National Indian Gaming Commission Single Point of Contact:

The public will be directed to the suitable contact for their area of interest by calling our headquarters front desk at (202) 632–7003, and if they have a problem reaching the appropriate person they should speak to Renee Fox, Administrative Assistant. NIGC, 1441 L Street NW, Suite 9100, Washington, DC 20005, Telephone: 202–632–7003, Fax: 202–632–7066. Web site: *www.nigc.gov*.

National Labor Relations Board

The following actions have been taken to provide compliance assistance to all NLRB ''customers'':

- NLRB recently issued instructions to its field offices to improve services to members of the public with limited English proficiency. These improvements would assist small businesses owned or managed by non-English speakers.
- NLRB continually seeks to improve the public information officer program in its field offices to ensure that the public is assisted properly with questions about their rights under the National Labor Relations Act (NLRA). NLRB information officers have responded to over 150,000 inquires annually. Most direct individuals to other agencies or provide explanations about the individual's rights under the NLRA. The services provided under our public information officer program

assists small businesses by discouraging the filing of frivolous charges.

• NLRB recently changed its Web site related to our Standards of Service, providing clear explanations about what parties to NLRB proceedings can expect after charges and petitions are filed. Our Web site provides for a procedure for the public to comment on how our services can be improved. (*www.nlrb.gov*)

• NLRB is developing a policy, which will be made available to the public on our Web site, that will enhance the ability of parties to our proceedings to communicate with the Agency through e-mail, and submit certain documents electronically.

• NLRB field offices are continually encouraged to expand their outreach programs by speaking to business groups and labor organizations about our procedures, and participating in labor-management conferences where changes in the current case law are explained and discussed. Many small businesses take advantage of these conferences so that they can learn how to stay in compliance with the National Labor Relations Act.

National Labor Board Single Point of Contact: Hugo Voogd, Deputy to the Assistant, General Counsel, NLRB, 14th Street, NW., Room 10204, Washington, DC 20570, Telephone: 202–273–0057, Fax: 202–273–4274 or 1044, E-mail: *hugo.voogd@nlrb.gov*. Web site: *www.nlrb.gov*.

National Mediation Board

National Mediation Board Single Point of Contact: Denise M. Vines, Supervisory, Finance & Administration Specialist, Washington, DC 20572, Telephone: 202–692–5010. E-mail: *vines@nmb.gov*.

Nuclear Regulatory Commission

Nuclear Regulatory Commission Single Point of Contact: Brenda Shelton, Chief, NRC Records Mgmt Branch, OCIO, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301-415–7233, Fax: 301–415–6434, E-mail: *BJS1@NRC.GOV*. Web site: *infocollects@nrc.gov*.

Office of Personnel Management

Office of Personnel Management Single Point of Contact: Henry Wong, Office of Personnel Management, Contracting Facilities and Administrative Services Group; Telephone: 202–606–2240.

Peace Corps

The Peace Corps, as a small Federal Agency, relies on and contracts with small businesses for a majority of our products and services. The Office of Contracts maintains a list of submitted contractors to match against our posted contracting requirements. The list is maintained for one year after submission. An agency database is maintained for overseas contractors. To enroll in this database, visit our Web site.

Many short-term training contractors are needed for overseas services.

Contracting opportunities available are posted on our Web site. Visit our Web site at *www.peacecorps.gov* under the heading About the Peace Corps, click on Management, and then click on Contracting Opportunities. On this web page, click on learn more to see overseas training services needed and to find information about being added to our database. Contracts for over $25,000 are posted on FedBizOpps.

Any questions or for further information, contact Ms. Judy Dawes. Ms.Dawes will provide assistance and explanations in complying with Peace Corps regulatory procedures and requirements for contracting.

Peace Corps Single Point of Contact: Judy Dawes, Peace Corps, Office of Contracts, Deputy Director, 1111 20th Street, NW., Room 4444, Washington, DC 20526, Telephone: 202–692–1624, Fax: 202–692–1621, Toll Free: 800–424–8580, E-mail: *jdawes@peacecorps.gov*. Web site: *www.peacecorps.gov*.

Pension Benefit Guaranty Corporation

Customer Service Center

A toll-free number (1–800–736–2444) dedicated to pension plan administrators and plan professionals.

Office of the RegFair Representative

Functions independently of enforcement and compliance activities, addresses issues raised by businesses that sponsor defined benefit pension plans, the vast majority of which are small businesses. The RegFair Representative is also PBGC's Problem Resolution Officer for plan practitioners, and can be reached via a toll-free number (1–800–736–2444, ext. 4163) or e-mail (*practitioner.pro@pbgc.gov*).

Ask an Attorney

An attorney in PBGC's Office of the General Counsel is available by telephone or e-mail for informal advice on legal issues pertaining to compliance, enforcement, and other matters of concern. The General Inquiry Attorney can be reached via a toll-free number (1–800–736–2444, ext. 4020) or e-mail (*AskOGC@pbgc.gov*).

PBGC's Web site

(*www.pbgc.gov*) includes:

• *The Small Business Guide to the PBGC.* This easy-to-read synopsis of all of a small plan sponsor's obligations under ERISA and our regulations makes it much easier for the small business owner to understand and comply with the program requirements. The booklet also contains phone numbers and other information on where to go for help.

• *Frequently Asked Questions.*

• *PBGC forms and instructions.*

• *Fact sheets on PBGC programs.*

• *Opinion Letters.* The General Counsel issues formal opinions on legal issues under Title IV of the Employee Retirement Income Security Act (ERISA).

• *The Blue Book* sets forth various questions of general interest to practitioners posed by representatives of the Enrolled Actuaries Program Committee, and provides answers from PBGC staff.

• *PBGC's Annual Report* provides financial information and describes its customer service, enforcement and compliance activities.

Note: All resources and publications available on PBGC's Web site can also be obtained by calling our Customer Service Center (1–800–736–2444).

Outreach

PBGC's outreach efforts include:

• *Meetings and conferences.* PBGC representatives participate in meetings and conferences with pension practitioners to address issues of mutual concern and to get their feedback.

• *Focus groups.* We conduct periodic focus groups to help determine ways in which we can better serve our customers; for example, with members of the American Society of Pension Actuaries (ASPA), a group which serves primarily small businesses.

• *Surveys.* Surveys are conducted regularly to continuously receive feedback from our pension practitioners, the majority of whom deal with the pension plans of small businesses.

Alternative Dispute Resolution (ADR) Policy

Under PBGC's ADR policy, PBGC examines the suitability of using ADR to resolve issues that would otherwise be resolved by adversarial administrative or judicial processes. In appropriate disputes, PBGC uses ADR in a good faith effort to achieve consensual resolution of issues in controversy, including compliance and enforcement matters.

Pension Benefit Guaranty Corporation Single Point of Contact: Customer Service Center: 1–800–736–2444. Diane Morstein, Customer Service Center,

Practitioner Problem Resolution Officer, Toll Free: 1–800–736–2444 ext. 4136.

The public can fully resolve most issues by calling PBGC Customer Service Center staff, 1–800–736–2444, and contacting Ms. Morstein only if the issue is not resolved to one's satisfaction.

Railroad Retirement Board

Railroad Retirement Board Single Point of Contact: Ronald J. Hodapp, Chief, Information Resources Management, Railroad Retirement Board, Telephone: 312–751–3366. E-mail: *Ronald.Hodapp@rrb.gov.*

Securities and Exchange Commission

Congress created the Securities and Exchange Commission in 1934 to protect investors, and to maintain fair, honest, and efficient national securities markets. The Commission provides extensive compliance assistance to the public. Small businesses subject to SEC regulation include

- issuers of securities,
- investment companies and investment advisers,
- broker-dealers, and
- transfer agents.

Other businesses affected by SEC regulation include auditors of companies whose stocks are publicly held and subject to registration with the SEC. The SEC's Office of Small Business Policy, telephone number (202–942–2950), should generally be the first point of contact for any small business that seeks compliance assistance from the Securities and Exchange Commission. This office is the primary resource for small business issuers of securities. Small regulated entities may wish to contact the appropriate Division or other office directly (Market Regulation for broker-dealers and transfer agents; Investment Management for investment companies and investment advisers; the Office of Chief Accountant for accountants).

Members of the public seeking compliance assistance for Securities and Exchange Commission regulation may contact SEC staff by mail, e-mail, or telephone.

Sources of SEC Information:

- Organization and functions of the SEC: *The Investor's Advocate: http://www.sec.gov/about/whatwedo.shtml*
- Brief review of governing federal regulations: *The Laws That Govern the Securities Industry http://www.sec.gov/about/laws.shtml*
- SEC regulation of small business capital formation and smaller public companies: *Q & A: Small Business and the SEC http://www.sec.gov/info/smallbus/qasbsec.htm*
- SEC regulation of securities brokers and dealers: *Compliance Guide to the Regulation of Brokers and Dealers http://www.sec.gov/divisions/marketreg/bdguide.htm*
- Regulations and Forms for Small Securities Issuers that issue securities subject to SEC regulation: Regulations and forms applicable to small businesses, *http://www.sec.gov/divisions/corpfin/forms/smallbus.shtlml*
- Regulations and forms for registered investment advisers: Investment Adviser Regulation, *http://sec.gov/divisions/investment/iaregulation.shtml*
- SEC forms and instructions for registered investment advisers: Investment Adviser Forms, *http://www.sec.gov/divisions/investment/iard/iastuff.shtml*
- Procedures for obtaining accounting or auditing advice from the SEC's Chief Accountant's Office:, Guidance on Consulting with the Office of the Chief Accountant, http://www.sec.gov/info/accountants.shtml
- Descriptions of most commonly used SEC forms: *http://www.sec.gov/info/edgar/forms.htm*
- SEC regulations for recordkeeping and capital requirements for securities brokers and dealers: *Broker-Dealer Net Capital and Books and Records Guidance, http://www.sec.gov/divisions/marketreg/bdnetcapital.html*
- Staff analyses of securities laws and regulations as applied to particular legal, regulatory, or accounting issues: Staff Interpretations, *http://www.sec.gov/interps.shtml*

Seminars, classes

- Annual meeting to explore means to improve capital formation for small business: Annual Government-Business Forum on Small Business Capital Formation, *http://www.sec.gov/info/smallbus/sbforum.shtml*

Web based compliance

- Small Cap and Private Companies: *http://www.sec.gov/info/smallbus/qasbsec.htm*
- Investment Adviser Registration: IARD, *http://www.sec.gov/divisions/investment/iaregulation.shtml*
- Registration and disclosure documents required to be and voluntarily filed electronically: EDGAR—electronic filing of SEC disclosure documents, *http://www.sec.gov/edgar.shtml*

Telephone service

- Office of Small Business Policy: 202–942–2950
- Division of Enforcement: 202–942–4530
- Toll-Free Consumer Information: 1–800–SEC–0330
- Small and minority business procurement: (202) 942–4990
- Public company disclosure requirements: 202–942–2825
- Office of Interpretations and Guidance for Market Regulation: 202–942–0069
- Regulation of Investment Companies and Investment Advisers: 202–942–0659

Online/e-mail service

- Inquiries about federal requirements for securities registration and corporate disclosure: *http://www.cfletter@sec.gov*
- Inquiries about applicability of securities laws to small business: *http://www.smallbusiness@sec.gov* (coming June 2003)
- Inquiries about the conduct of federally-regulated securities markets: *http://marketreg@sec.gov*
- Inquiries about federal regulation of investment advisers: *http://www.IARDLIVE@sec.gov*
- Inquiries about federal regulation of investment companies: *http://www.IMOCC@sec.gov*

Contacts

- Homepage: *http://www.sec.gov*
- News: *http://www.sec.gov/news.shtml*
- Regulatory: *http://www.sec.gov/about/laws.shtml, http://www.sec.gov/rules.shtml*
- Small Business: *http://www.sec.gov/info/smallbus.shtml*
- E-mail: *smallbusiness@sec.gov*
- Phone Number: (202) 942–2950

Securities and Exchange Commission Single Point of Contact: Gerald Laporte, Chief, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW., Room 3501, Washington, DC 20549–0310, Telephone: 202–942–2950, Fax: 202–942–9516. E-mail: *laporteg@sec.gov.*

Selective Service System

Selective Service System Single Point of Contact: Calvin Montgomery, 1515 Wilson Blvd., Arlington, VA 22209, Telephone: 703–605–4038. E-mail: *cmontgomery@sss.gov.*

Small Business Administration

Small businesses wanting access to SBA programs should call SBA's Answer Desk toll-free or e-mail *answerdesk@sba.gov.* In many cases, the SBA information technician receiving a call will directly answer the question. If a matter needs attention from a particular program specialist in the caller's immediate area of the country, the SBA Answer Desk can put the caller in touch with a specific individual in an SBA District Office or program office.

SBA Answer Desk

6302 Fairview Road, Suite 300, Charlotte, North Carolina 28210, Answer Desk TTY: (704) 344–6640, 1–800–UASK–SBA (1–800–827–5722), TTY Directory [*Text*] or [*PDF*], Send e-mails to: *answerdesk@sba.gov.*

Other good ways to access compliance information about SBA programs are going to the SBA Web site's frequently asked questions about SBA programs at *http://app1.sba.gov/faqs/* or to SBA's main web page, *http://www.sba.gov/*

Small Business Administration Single Point of Contact: Ms. Jacqueline K. White, Chief, Administrative Information Branch, U.S. Small Business Administration, 409 3rd Street, SW., MC5101, Washington, DC 20416–0005, Telephone: 202–205–7044, Fax: 202–481–2916. E-mail: *jacqueline.white@sba.gov.*

Social Security Administration

The majority of the services listed below are offered as a part of the Social Security Administration's (SSA) overall service to the business community in general, not specifically to small businesses. These services are directed to employers, businesses or organizations that serve as representative payees to Social Security beneficiaries, businesses that seek contracts with SSA and to schools. There are four primary avenues of access to these services with significant overlaps between them.

Toll-Free Telephone Service

• The Teleservice Center (TSC) number 800–772–1213 may be used by employers to verify that they have the correct Social Security number (SSN) for an employee. This verification saves the often difficult job of correcting wage reports made under an incorrect SSN. Up to five SSNs may be verified with one call if the employer can furnish their address and employer identification number (EIN). If they need to verify more than 5 but less than 50, the TSC will advise the employer to contact the nearest SSA Field Office (FO) and provide them with the FO's telephone number and address. There is a procedure for verifying more than 50, but this should not be an issue with small businesses.

• New employers wishing to apply for an EIN may also request from the TSC that the application form SS–4, *Application for Employer Identification Number*, be sent to them along with the Internal Revenue Service (IRS) publication, *Instructions for Form SS–4.*

• SSA maintains the SSA Employer Reporting Service Center at 800–772–6270 or online at *http://www.ssa.gov/employer/.* It can also be reached online from the SSA home page. This center can provide very detailed information on the best way for a particular employer to report wages. An employer calling the TSC but wanting more in-depth information about reporting wages, etc., will be referred to this number or Web site.

• Organizational Representative Payees are governmental or non-profit social service agencies that manage benefits for beneficiaries who are not able to manage benefits on their own. The TSC is a resource for organizational representative payees who must deal with the many issues that often arise with beneficiaries who cannot manage their own benefits. Changes in address or circumstances, non-receipt of check, work issues and many other issues can be dealt with primarily by phone.

Online Services

• The SSA Web site, *http://www.ssa.gov*, contains a link that directs businesses to the Business Services Online (BSO) Web site, *http://www.ssa.gov/bso/bsowelcome.htm.* BSO is a suite of business services for companies to conduct business with SSA. BSO consists of Registration Services, Employer Services (Submit a Wage File, W–2 Online, View Status, View Notices, and View Errors), and the Social Security Number Verification Service. The employer must be a registered BSO user to use these services; however, registration is free. Businesses needing personalized assistance with wage reporting can follow a link, *http://www.ssa.gov/employer/wage_reporting_specialists.htm,* to find a current list of Employer Services Liaison Officers for each region who are available to discuss specific wage reporting issues by phone. Social Security personnel at these telephone numbers can help callers with all questions about how to submit W–2's to SSA. These are not toll-free telephone numbers, however.

• SSA's Office of Acquisition and Grants (OAG) maintains a Web site, *http://www.ssa.gov/oag,* which contains very helpful acquisition information to assist small businesses interested in doing business with SSA. OAG's policies in general make doing business with SSA very easy for small businesses. All contracts are offered on an ''open bid'' basis, meaning the bidding contractor does not have to be on any specific list of approved contractors. Also, they reserve some contracts for award to small businesses only.

• SSA maintains an excellent Web site, *http://www.ssa.gov/payee*, dedicated to Representative Payee requirements and responsibilities. This is significant because many beneficiaries who need a payee have no family or friends willing to serve in this capacity. As a result, many small social service organizations serve as payees. This Web site makes it very easy for small businesses to apply and be approved as an organizational payee. Training materials for payees are available at the Web site, including a written lesson, a PowerPoint presentation, and a video. The written material and the PowerPoint program can be downloaded from the Web site and the video can be ordered. Also, interested parties can request the material, including the video, on a compact disk.

• SSA must verify the full time attendance of certain students by asking school officials to complete a form certifying that the student/beneficiary is in full time attendance at the school. School officials can access a dedicated Web site, *http://www.ssa.gov/schoolofficials/,* which explains the verification process, why the information is needed, and what is expected of them. The site also has a ''Frequently Asked Questions'' service. School officials are also able to download the form if they or the student lose the form they received from SSA.

Publications

• SSA publishes a quarterly newsletter in conjunction with the IRS called the SSA–IRS Reporter. This newsletter is mailed by IRS along with Form 941, Employer's Quarterly Federal Tax Return. It contains up-to-date wage and tax reporting information. While it is mailed to all employers, surveys show that it is predominately read by small business owners.

• Another helpful publication is a pamphlet called *W–2 Wage Reports for Your Employees Are Filed with the SSA.* This pamphlet (SSA Pub. No. 16–009, ICN 361758) is sent by IRS to all new employers. It tells the new employer about different methods of reporting wages, how to avoid errors in SSN and name, and how to get more information about Social Security.

• The *Employer's Guide to Filing Timely and Accurate W–2 Wage Reports* is available both in hard copy and on the SSA Web site at *http://www.ssa.gov/employer/pub.htm.* This pamphlet (SSA Pub. No. 16–004) explains an employer's responsibilities, how to file, where to file, how to avoid common reporting errors, how to correct them, finding help, etc.

• The publication, *A Guide for Farmers, Growers and Crew Leaders* (SSA Publication No. 05–10025), provides information on Social Security's benefit package and how to report income to SSA. This guide is available on SSA's Web site at *http://www.ssa.gov/employer/pub.htm.*

Outreach

• SSA participates in a number of IRS-related events. Staff attend six tax seminars a year presented by IRS. SSA staffs a booth at these public seminars and also provides a 1½ hour workshop on employer reporting. A number of small businesses attend these workshops. SSA staff are also present at eight payroll reporting conferences each year in different parts of the country. These conferences are attended primarily by larger businesses, but they are open to any business.

• SSA holds The National Payroll Reporting Conference on an annual basis at its Baltimore headquarters. This conference was established in 1990 as a forum for Federal agencies and the business community to gather, identify, discuss and resolve common wage and tax reporting issues. This conference has had a significant positive impact on the accuracy of the wage data submitted to SSA. The conference also provides the business community an opportunity to have a voice in initiatives that will ultimately affect the way it does business. The conference is attended by many small companies from the surrounding states as well as by national payroll organizations and service bureaus. Due to budget limitations, the 2003 conference will not be held; however, the Agency expects to sponsor the conference again in 2004.

• SSA's Office of Small and Disadvantaged Business Utilization provides assistance to small businesses through scheduling one-on-one meetings and participating in various procurement trade shows and conferences.

Social Security Administration Single Point of Contact: Liz Davidson, SSA Reports Clearance Officer, 1338 Annex Building, 6401 Security Boulevard, Woodlawn, MD 21235, Telephone: 410–965–0454, Fax: 410–965–6400, E-Mail: *Liz.Davidson@ssa.gov.*

Surface Transportation Board

The Surface Transportation Board (STB) is an independent adjudicatory body administratively housed within the Department of Transportation. STB is responsible for the economic regulation of interstate surface transportation, primarily railroads, within the United States. STB's mission is to ensure that competitive, efficient and safe transportation services are provided to meet the needs of shippers, receivers and consumers. In furtherance of its mission, STB provides a number of services that small businesses might find useful:

• General Information: 202–565–1764
• Procurement: 202–565–1701
• Public Services: 202–565–1592 (how to participate in agency proceedings)
• Library/publications: 202–565–1668
• Rail Consumer Assistance (toll free): 866–254–1792
• Home page: *www.stb.dot.gov.*
• Publications: Overview-Abandonments and Alternatives to Abandonments

Surface Transportation Board Single Point of Contact: Anne K. Quinlan, 1925 K Street, NW., Ste. 894, Washington, DC 20423–0001, Telephone: 202–565–1727, E-mail: *quinlana@stb.dot.gov.*

Tennessee Valley Authority

Business Incubation Program

Over the years, TVA has provided capital to help communities establish business incubators to support new and expanding enterprises. The TVA Business Incubation Network includes 24 operational sites across the Valley where tenants share services, equipment, and building space. TVA provides technical and financial assistance to members of the TVA-supported network and also maintains the Business Incubator Tenant Loan Fund, a revolving fund that helps tenants meet short-term needs for cash flow and operating capital.

Online Business Resource Center

TVA's Web-based center serves as an information gateway to valuable public and private resources on entrepreneurship, financial and technical assistance, industrial organizations, and business services. Topics range from setting up a business plan to finding capital, paying taxes, and marketing. The site provides access to the programs and services offered by TVA, other Tennessee Valley organizations, and nationwide resources. Visit the Online Business Resource Center at *www.tva.com/econdev/obr.*

Minority Business Development Program

TVA supports the growth and expansion of minority and socially and economically disadvantaged businesses with diverse packages of technical, capital, and managerial assistance. A key feature of the program is the Minority Business Development Loan Fund (MBDLF), a revolving fund that provides for loans ranging from $50,000 to $500,000. Through the MBDLF and the Valley Coalition, a partnership between TVA and regional banks, TVA promotes job creation and stimulates capital investment in the Valley.

Small and Minority Business Mentoring

Small and minority businesses that provide services to TVA receive support through TVA's mentoring program, which helps these firms grow and enhance their business operations. Assistance includes matching suppliers with business opportunities, identifying key business contacts, encouraging joint ventures and alliances, and linking TVA procurement needs with manufacturers and businesses in the Tennessee Valley.

Partners

TVA's economic development programs are delivered in partnership with public and private organizations. Some of our partners are:

• Distributors of TVA power
• Chambers of commerce and local economic development authorities
• TVA-supported business incubators
• State departments of economic and community development
• The U. S. Small Business Administration
• The U. S. Department of Commerce's Minority Business Development Agency
• Small business development centers
• U.S. Department of Agriculture Rural Development
• The Valley Coalition, a public/private lending and business assistance partnership between TVA and participating Valley financial institutions.

Small Business Assistance Web site: *http://www.tva.com/econdev/smallbiz.htm*

Tennessee Valley Authority Single Point of Contact: Philip S. McMullan, Project Manager, Business Growth and Innovation, Telephone: 615–232–6227, Fax: 615–232–6189, E-mail: *psmcmullan@tva.gov,* Web site: *www.tva.com/econdev/obr.*

U.S. Access Board

The U.S. Access Board (Board) develops and maintains accessibility guidelines and standards for the built environment, transportation vehicles, electronic and information technology and telecommunications. These design requirements are used to enforce several different laws, including the Americans with Disabilities Act. A key part of the

Board's mission is providing technical assistance on the design requirements it develops and maintains. Information about any of the Board's guidelines or standards or accessible design can be obtained through the Board's toll free numbers at 800–872–2253 (v) and 800–993–2822 (TTY); through fax at 202–272–0081; mail addressed to U.S. Access Board 1331 F St. NW Ste. 1000, Washington, DC 20004; e-mail to *ta@access-board.gov* or from the Board's Web site *http://www.access-board.gov.*

In addition, the Board participates in a wide range of training programs and conferences throughout the country every year. Information on upcoming events is available from the Board and is posted on its Web site at *http://www.access-board.gov/research&training/Training.htm.* The Board also publishes a host of guidance materials on its design requirements and other aspects of accessible design. Board publications are available in a variety of accessible formats. Copies of all Board publications are available free from the Board, including through its Web site at *http://www.access-board.gov/indexes/pubsindex.htm.*

U.S. Access Board Single Point of Contact: Elizabeth Stewart, Deputy General Counsel, U.S. Access Board, 1331 F Street NW., Suite 1000, Washington, DC 20004, Telephone: 202–272–0042, TTY: 202–272–0082, Fax: 202–272–0081, E-Mail: *steward@access-board.gov.*

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Federal Register

Friday,
June 27, 2003

Part VI

Department of Justice

Drug Enforcement Administration

21 CFR Parts 1305 and 1311
Electronic Orders for Controlled Substances; Proposed Rule and Notice

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1305 and 1311

[Docket No. DEA–217P]

RIN 1117–AA60

Electronic Orders for Controlled Substances

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: DEA is proposing to revise its regulations to provide an electronic equivalent to the DEA official order form, which is legally required for all distributions involving Schedule I and II controlled substances. These proposed regulations will allow registrants to order Schedule I and II substances electronically and maintain the records of these orders electronically. The proposed regulations would reduce paperwork and transaction times for DEA registrants who handle, sell, or buy these controlled substances. This proposed rule has no effect on patients' ability to receive prescriptions for controlled substances from practitioners, nor on their ability to have those prescriptions filled at pharmacies. In fact, this rule will help to ensure the appropriate supply of controlled substances throughout the distribution system.

DATES: Written comments must be postmarked on or before September 25, 2003.

ADDRESSES: Comments should be submitted to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

I. Background
What is DEA's Legal Authority for these Regulations?
What are the current requirements for distributing Schedule I and II controlled substances?
Why is this level of control necessary?
If the current system works to limit diversion, why is a change needed?
What is the Electronic Signatures in Global and National Commerce Act?
II. Proposed Approach
What is DEA's objective with this proposed rule?
How did DEA develop its approach?
What approach has DEA selected?
Why are authentication, nonrepudiation, and message integrity requirements necessary?
What existing technologies meet these proposed criteria?
Why do other electronic signature systems not meet the performance standards?
Why is a digital signature approach necessary?
How is a digital certificate an electronic equivalent of a Form 222?
In simple terms, how does a digital signature work?
In simple terms, how would this system work for the user?
What is a Certification Authority and why is it needed?
What would the Certification Authority do?
Who would serve as the Certification Authority?
III. Discussion of the proposed rule on electronic orders
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How are digital certificates obtained?
Who are CSOS Coordinators and what is their role in the digital certificate enrollment process?
How would a person obtain a digital certificate?
Why does the application need to be notarized?
How many certificates will be required?
What is the renewal period for digital certificates?
What are the requirements for companies that grant power of attorney to authorize use of their DEA registrations?
What systems are required to use a digital signature?
What systems are required to be able to process a digital signature?
What are the FIPS Standards and why are they needed?
How is it possible to determine whether a specific system meets these criteria?
What are the requirements for safeguarding private keys?
What are the conditions that would lead DEA to revoke a certificate?
B. Orders
What is DEA proposing for electronic orders?
What are the differences between DEA Form 222 and electronic orders?
What data must be included in an electronic order?
How can electronic orders be annotated?
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Can a centralized processing facility be used?
What information is a supplier required to report to DEA?
Why does the reporting period change for electronic orders?
Can a digital certificate be used to sign orders for Schedule III through V controlled substances?
IV. Section by Section Discussion of the Proposed Rule
How is the proposed rule structured?
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Regulatory Flexibility Act
Small Business Regulatory Enforcement Fairness Act of 1996
Paperwork Reduction Act
Executive Order 12988
Executive Order 13132
Unfunded Mandates Reform Act of 1995

I. Background

What Is DEA's Legal Authority for These Regulations?

DEA enforces the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*), as amended. DEA regulations implementing this statute are published in title 21 of the Code of Federal Regulations (CFR), part 1300 to 1399. These regulations are designed to establish a framework for the legal distribution of controlled substances to deter their diversion to illegal purposes and to ensure that there is a sufficient supply of these drugs for legitimate medical purposes.

What Are the Current Requirements for Distributing Schedule I and II Controlled Substances?

The CSA prohibits distribution of Schedule I and II controlled substances except in response to a written order from the purchaser on a form DEA issues (21 U.S.C. 828(a)). DEA issues Form 222 to registrants for this purpose, preprinting on each form the registrant's name, registered location, DEA registration number, schedules, and business activity. DEA serially numbers the forms and requires registrants to maintain and account for all forms issued. Executed and unexecuted Forms 222 must be available for DEA inspection. The CSA requires that executed Forms 222 be maintained for two years (21 U.S.C. 828(c)).

When ordering a Schedule I or II substance, the purchaser must provide two copies of the Form 222 to the supplier and retain one copy. Upon filling the order, the supplier must annotate both copies of the form with details of the controlled substances distributed, retain one copy as the official record of the distribution, and send the second copy of the annotated Form 222 to DEA. Upon receipt of the order, the purchasers must also annotate their copy, noting the quantity of controlled substances received and date of receipt.

Why Is This Level of Control Necessary?

The purpose of DEA's regulations is to establish a framework for the legal distribution of controlled substances and to prevent their diversion to the illegal markets. Controlled substances are those substances listed in the

schedules of the CSA and 21 CFR 1308.11–1308.15, and generally include narcotics, stimulants, depressants, hallucinogens, and anabolic steroids that have a high potential for abuse and dependency. DEA's regulations require that people involved in the manufacture, distribution, research, dispensing, import, and export of controlled substances register with DEA, keep track of all stocks of controlled substances, and maintain records to account for all stocks received, distributed, or otherwise disposed of. For Schedule I and II controlled substances, which have the highest potential for abuse and dependency, the CSA mandates that distribution can only occur in response to an order signed by the purchaser on a form issued to the purchaser by DEA. For other schedules, the law requires recordkeeping by both DEA-registered parties.

If the Current System Works to Limit Diversion, Why Is A Change Needed?

Although the current regulatory structure limits diversion, it does not address or provide for the use of modern computer technologies. DEA issued more than five million individual order forms in fiscal year 2001. Using 2001 as an average year, because both the purchaser and supplier must maintain copies of the form for two years, the order system requires the maintenance of almost twenty million forms.

Many, if not most, of the registrants using Form 222 place all of their other orders electronically. Many suppliers receive electronic notice from their purchasers of their intention to place Schedule I and II orders, but the orders cannot be filled until the supplier receives the DEA-issued Form 222 from the purchaser. The processing of the Form 222 takes one to three days from the time the form is completed to the time the order is delivered; electronic orders can be processed and filled immediately. Industry has asked DEA to provide an electronic means to satisfy the legal requirements for order forms. This proposed rule is in response to that request and will not only satisfy the requirements for Schedule I and II transactions, but may also be used for Schedule III through V transactions. Use of this system for all controlled substances transactions will facilitate the verification and authentication of the registration status of customers.

In addition, two recent laws, the Government Paperwork Elimination Act of 1998 (GPEA) and the Electronic Signatures in Global and National Commerce Act of 2000 (E-Sign) require Federal agencies to allow electronic recordkeeping and reporting and recognize electronic signatures.

What Is the Electronic Signatures in Global and National Commerce Act?

The Electronic Signatures in Global and National Commerce Act of 2000, commonly known as E-Sign, was signed into law on June 30, 2000. It establishes the basic rules for using electronic signatures and records in commerce. E-Sign was enacted to encourage electronic commerce by giving legal effect to electronic signatures and records and to protect consumers. E-Sign prohibits government agencies from denying the legal effect of electronic signatures and records of electronic commerce based solely on their electronic nature, but allows Federal, state, and local agencies to set performance standards where necessary to ensure record integrity and accessibility of records.

Section 104(a) of E-Sign provides that, subject to the requirements of the Government Paperwork Elimination Act of 1998 (GPEA), ''* * * nothing in this title limits or supersedes any requirement by a Federal regulatory agency, self-regulatory organization, or State regulatory agency that records be filed with such agency or organization in accordance with specified standards or formats.'' The CSA and regulations require that distributions involving Schedule I or II controlled substances may be accomplished only when the orders are made on forms that DEA issued in triplicate to the purchaser and upon which DEA has imprinted the name of the purchaser (21 U.S.C. 828(d)(1) and 21 CFR 1305.05(a)). The law further provides that ''* * * it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances.'' (21 U.S.C. 828(d)(1)). Of the three copies of the form issued, the purchaser and the supplier must each maintain a copy, and the supplier must provide a copy to DEA following completion of the transaction (21 CFR 1305.13). The CSA and implementing regulations clearly establish a specified standard and format that must be adhered to in filing records of distributions of Schedule I and II controlled substances with DEA, which are not superseded by E-Sign. It should be noted that the filing requirement is subject to the requirements of GPEA, which requires, in part, that for certain governmental filings, an electronic means to satisfy the requirement must be established, to the extent practicable, by October, 2003. DEA does anticipate that the electronic means to satisfy the order form requirement that is being proposed in this rule will be in place by the GPEA deadline.

II. Proposed Approach

What Is DEA's Objective With This Proposed Rule?

DEA's objective is to develop an approach for electronic orders that takes advantage of computer technology without compromising the effectiveness of the existing system to limit diversion of controlled substances.

How Did DEA Develop Its Approach?

Before selecting an approach, DEA developed a set of basic performance standards that any electronic signature system would have to meet to serve as an electronic equivalent of the DEA Form 222 and reviewed all of the existing electronic signature technologies. DEA also met with representatives from a mix of manufacturers, distributors, pharmacies, and other interested parties to identify issues with the DEA Form 222 and to identify the information technologies (IT) registrants currently use in their ordering process. If the proposed rule is to provide the benefits that DEA and industry seek, the system should be compatible with existing information technology architectures and configurations. The results of DEA's meetings are summarized in two documents: Public Key Infrastructure Certificate Policy Requirements Analysis and Public Key Infrastructure Existing Network Infrastructure Analysis, which are available at *http://www.deadiversion.usdoj.gov.* Throughout the project, DEA has continued to meet with industry to discuss the requirements and to obtain more detailed technical input on how the proposed approach could be integrated with existing IT systems.

What Approach Has DEA Selected?

DEA is proposing to include in the rule three performance standards that are necessary to ensure that the electronic system is substantially equivalent to the DEA Form 222: message/record integrity, authentication, and nonrepudiation. DEA has determined that of the existing electronic signature technologies, only digital signatures using certificates issued through a public key infrastructure (PKI) system, operated by DEA, provide for record integrity and can serve as the functional equivalent of the form that the CSA mandates DEA to provide. If other technologies are

identified that meet all of the performance standards, DEA will consider them and determine whether they could satisfy the CSA mandates with respect to order forms.

The proposed rule would not mandate the use of an electronic system, but would provide registrants with an alternative to DEA Form 222. A DEA-issued digital certificate would contain the information that DEA preprints on a Form 222. Each registrant who wants to order Schedule I or II controlled substances electronically would need to apply to the DEA Certification Authority (CA) for a digital certificate.

Why Are Authentication, Nonrepudiation, and Message Integrity Requirements Necessary?

The CSA requires that Schedule I or II controlled substances be distributed only in response to signed orders submitted by purchasers on a form issued to them by DEA. The paper Form 222 offers a level of authentication because DEA issues the form only to a valid registrant who is authorized to place the order. Further the order form is bound to a specific registrant and location preprinted by DEA on the form. The registrant's manual signature on the form provides the element of nonrepudiation. The existence of multiple copies held by separate parties ensures the integrity of the document.

With electronic transmission, the importance of authentication, nonrepudiation, and message integrity, criteria the current system meets, is magnified. It is not difficult to send electronic messages in other people's names or intercept, duplicate, or alter messages. Image files and read-only files are now relatively easy to copy, alter, and replace. If purchasers and suppliers are to be able to use computer technology for controlled substance orders, it is critical that they be able to trust the system. Suppliers and purchasers must trust that an order has not been altered during transmission. Suppliers must trust that the purchaser who signed the order is who he or she claimed to be. They (and DEA) must be certain that an order they sign or receive has not been altered and that no one other than an authorized, DEA-registered purchaser could have sent it.

None of the three characteristics is sufficient by itself. If a technology provided nonrepudiation and authentication of the signature, but the message could be altered, the nonrepudiation and authentication would be questionable. For example, if the identity of a purchaser was verified and a purchaser used a biometric to electronically sign an order, but the document could be altered either during transmission or after receipt by the supplier, the purchaser could repudiate the document even though it could be proved that a specific registrant had signed it. If the message could not be altered, but the identity of the signature holder had never been verified or the password or signing key could be used by anyone, the integrity of the message would also be questionable. In this case, you could prove that a specific order had been sent, but not who had actually sent it. To retain the integrity of the diversion control system, it is necessary to establish specific performance criteria with minimum acceptable standards for any technology that is to be used for signing Schedule I and II controlled substance orders.

What Existing Technologies Meet These Proposed Criteria?

At present, only a digital signature based on a public key infrastructure (PKI) would provide the authentication, nonrepudiation, and message integrity that are necessary to protect these communications and prevent alteration of the documents. In a June 2000 report, ''The Evolving Federal Public Key Infrastructure,'' the Federal Public Key Infrastructure Steering Committee described the benefits PKI provides as follows:

> Public key technology provides a mechanism to authenticate users strongly over closed or open networks, ensure integrity of data transmitted over those networks, achieve technical nonrepudiation for transactions, and allow strong encryption of information for privacy/confidentiality or security purposes. Strongly authenticating users is a critical element in securing any infrastructure; if you cannot be certain with whom you are dealing, there is substantial potential for mischief. Ensuring data integrity of data from end-user to end-user makes it more difficult for data substitution attacks aimed at servers or hosts to succeed. Technical nonrepudiation binds a user to a transaction in a fashion that provides important forensic evidence in the event of a later problem. Encryption protects private information from being divulged even over open networks.

PKI systems are based on asymmetric cryptography: the holder of the digital certificate has a private key, which only the certificate holder can access, and a public key, which is available to anyone. What one key encrypts, only the other key can decrypt. It is computationally infeasible for the two keys to be derived from each other. Only one public key will validate signatures made using its corresponding private key. Because the private key is held by only one person, it is that person's responsibility to ensure that it is not divulged or compromised. The method in which PKI systems ensure the integrity of the message is explained in detail in the section entitled ''In simple terms, how does a digital signature work?''

A PKI system is more than cryptographic keys. The infrastructure component (the ''I'' in PKI) is critical to meeting the criteria for authentication, integrity and nonrepudiation. PKI systems are operated by a Certification Authority (CA), which is responsible for verifying the identity of any applicant for a digital certificate, maintaining security, establishing the responsibilities of certificate holders, and maintaining a public directory of public keys and an up-to-date certificate revocation list. The Certification Authority is a trusted third party. Suppliers and purchasers need only trust the CA, in this case DEA, to be able to trust each other.

Why Do Other Electronic Signature Systems Not Meet the Performance Standards?

Other technologies create signatures that are generically referred to as electronic signatures. DEA investigated other electronic signature technologies, but determined that none of them met all three performance criteria. Common electronic signature systems include symmetric cryptography technologies and non-cryptographic methods. Any of the systems may provide for authentication if the controlling authority takes steps to verify the identity of the person using a cryptographic key or password, but this verification is not usually a key element of systems based on electronic signature technologies. Electronic signature systems that rely on symmetric cryptography, where both parties to the transaction use the same key, do not meet the standard of nonrepudiation. The Federal Public Key Infrastructure Steering Committee also noted that symmetric cryptography technology is not suitable for systems that have more than a few users.

None of these electronic signature technologies, by themselves, including biometrics, provide for record integrity. With any of the existing electronic signature technologies, there would be no assurance that the record had not been altered during or after transmission.

Why Is a Digital Signature Approach Necessary?

After reviewing options, DEA determined that a digital certificate issued by DEA is the only ''electronic

signature'' technology that meets the dual requirements:

• The digital certificate provides the message/record integrity, authentication, and nonrepudiation that DEA has determined are necessary to tie these communications to a specific person and prevent alteration of the documents. These standards are substantially related to achieving diversion control.

• The digital certificate would be the functional equivalent of the paper order form, which the CSA requires DEA to issue.

The digital certificate system DEA is proposing would establish an electronic alternative to Form 222 for Schedule I and II controlled substances that will allow registrants to retain their current ordering systems. Instead of an electronic form, the DEA Certification Authority will issue digital certificates, which will serve as an electronic equivalent of the Form 222.

How Is a Digital Certificate an Electronic Equivalent of a Form 222?

The key elements of a Form 222 are that DEA issues them only to registrants authorized to order Schedule I and II controlled substances and preprints the forms with information that ties the form to a specific registrant and location. Only digital certificates issued by DEA under the same circumstances as the Form 222 will be allowed for signing electronic orders for Schedule I and II controlled substances. All of the information currently preprinted on the Form 222 will be part of the digital certificate extension data, which will be included on each order that is digitally signed. The digital certificate attached to an electronic order with the digital signature will create the equivalent of the Form 222. To accept an order, the supplier's software must perform the validation functions, thus confirming that the purchaser is authorized by DEA to order the specified schedules of controlled substances.

This approach will allow registrants to use their current electronic order systems provided the systems can be enabled to accept and validate the DEA-issued digital certificate/signature information and the orders include the information currently required on a Form 222. DEA has been working with industry to develop code to enable existing systems to reduce the cost of implementation.

DEA will not limit digital certificates to those registrants authorized to order Schedule I and II controlled substances. Any DEA registrant eligible to order controlled substances will be able to obtain a DEA-issued digital certificate; the certificate extension data will inform the supplier which schedules a purchaser is authorized to order. Although the digital certificates would be required for signing and transmitting electronic orders for Schedule I or II controlled substances, DEA will encourage registrants to use the certificates to sign all electronic orders for controlled substances. Using the DEA-issued certificates will reduce the burden on suppliers, who must verify the purchaser's DEA status; the certificate extension data and the validity of the certificate will provide this information.

In Simple Terms, How Does a Digital Signature Work?

This section provides a simplified description of how a digital signature system works. Each certificate holder would have a public key, available to anyone, and a private key, which the certificate holder must keep secure. The two keys are used by an asymmetric encryption algorithm; what one key encrypts, only the other key can decrypt. The two keys are different and cannot be practically derived from each other.

When the certificate holder digitally signs an order, the PKI-enabled software runs the text of the order through a complex algorithm that creates a fixed length digest of the document (called a hash). The hash is a compact representative image of the document that is often referred to as a document ''fingerprint.'' The software then uses the private key to encrypt the hash; the encrypted hash is the digital signature.

The purchaser's software transmits a plain text order with the encrypted hash and the sender's digital certificate to the supplier. When the supplier receives the document, the supplier's software would use the sender's public key, which is part of the certificate, to decrypt the digital signature. If the public key can decrypt the digital signature successfully, the supplier would know that only the holder of the private key could have sent the digitally signed order. The supplier's software would then use the same hashing algorithm the purchaser used to create a second digest (hash) of the plain text document received. If the new hash is identical to the hash the computer has decrypted, the document has not been altered in transmission. If even a single space or letter in the document has been changed, the hashes would not match and the document must be considered invalid.

The power of the digital signature approach is that it provides for authentication, nonrepudiation, and message/record integrity. The supplier can be certain that only a specific certificate holder could have signed the document (because the Certification Authority verified the identity before issuing the certificate and because the public key decrypted the signature) and that the document has not been altered in transmission (because the hashes match). In addition, the other information included in the digital certificate attached to the order (name, address, DEA registration number, business activity, schedules, and expiration date) provides the supplier an instant source of information to verify the sender's right to issue and sign the order. The system also would automatically check the certificate revocation list to be sure that the certificate is still valid.

For a more complete discussion of the technical details of digital signatures, and a complete list of approved algorithms, see the Federal Information Processing Standard (FIPS) 186–2.

In Simple Terms, How Would This System Work for the User?

Practical implementations of PKI technology are typically simple and transparent for the user, despite the complex technologies involved. The complex parts of the system are automatically handled by the software system.

The steps a user would take are as follows:

• To obtain a digital certificate, a DEA registrant or a person granted power of attorney authority to obtain and sign Schedule I and II orders for a registrant would submit proof of identification and proof of a current DEA registration to the Certification Authority (CA). The applicants would also have to install software to PKI-enable their computers or ensure that their network browsers are PKI-enabled. Most recent versions of Internet browsers are PKI-enabled.

• Once the CA verifies the identification, the CA would send the applicant a one-time use access code and password via separate channels. The applicant would use the PKI software to generate a key pair (public and private keys) and access the Certification Authority electronically using the access code and password to request a certificate. These keys would be stored in the applicant's computer or on a FIPS 140–2 approved secure hardware device. Once generated, the Certification Authority must prove that the user has possession of the key. For signature public keys, the corresponding private key must sign the certificate request. Verification of the signature using the public key in the request

would serve as proof of possession of the private key. The user would not need to learn the keys. The user would employ an authentication mechanism to access the private key. The authentication mechanism could be a user name and password. Although DEA is not requiring use of biometrics, DEA recognizes the advantages of biometric passwords to ensure that a private key cannot be shared and suggests that registrants consider their use.

- When the users want to digitally sign an order, they would authenticate themselves to access the private key to sign the document. Specific procedures may vary depending on the exact nature of the system employed, but basically, once the certificate holder has accessed the private key, a single key stroke would ''sign'' the document. At the keystroke, the software would perform the hashing functions and encryption, attach the encrypted hash and digital certificate to the plain text order, and transmit.

At the supplier end, the steps are equally simple:

- The supplier would receive the order electronically. The digital certificate attached to the order would contain the information necessary for the supplier to determine whether the person is eligible to write the order received.
- The supplier would validate the order.
- The supplier's software would automatically check the certificate revocation list to verify that the user's certificate had not been revoked. It would also verify that the certificate was signed with the DEA CA certificate.
- The software would use the sender's public key to decrypt the signature, obtain the hash, and automatically compare it with the hash of the plain text message generated by the supplier's software to determine if the file had been altered.
- The software system would check the expiration date on the certificate to ensure that the certificate had not expired when the order was signed.
- The software would compare the controlled substances ordered with the schedules listed in the certificate to verify that the certificate holder is authorized to order the schedule.
- Only if all the checks indicate a valid order would the system indicate that the order was valid.

The supplier's system would have to require that all authentication and validation steps be carried out before allowing the order to be processed.

What Is a Certification Authority and Why Is It Needed?

In the Form 222 system, DEA issues the forms to registrants, providing assurance to suppliers that the orders they receive are from registrants authorized to order Schedule I and II controlled substances. In a PKI system, a Certification Authority (CA) acts as a credible and neutral trusted third party and is central to the operation of the digital certificates. Each party (the certificate holder and recipient of a digitally signed document) relies on the CA. If they trust the CA, they can trust the certificates the Certification Authority issues. Without a trusted third party, each recipient would have to determine whether each sender could be trusted. A Certification Authority makes it possible for a recipient to receive orders from persons who have never before placed orders with them and quickly determine whether the person has a right to order the substance. This process is similar to the Form 222 issued by DEA, which contains preprinted registrant information, including the registrant's name, address, DEA registration number, and schedules.

What Would the Certification Authority Do?

The Certification Authority would enroll certificate holders and verify the identity of an applicant and the applicant's DEA status before issuing a certificate. The Certification Authority would maintain a public directory of certificate holders' public keys and a Certificate Revocation List (CRL), both of which recipients of digitally signed documents must check to verify the validity of a certificate. The Certification Authority would operate under a publicly available Certificate Policy, a set of rules that covers subjects such as obligations of the Certification Authority, the certificate holders, and those relying on the Certification Authority for validation; enrollment and renewal procedures; operational requirements; security procedures; and administration.

Who Would Serve As the Certification Authority?

Because a digital certificate is the functional equivalent of a Form 222 that DEA is required to issue, only DEA can serve as the Certification Authority for issuing digital certificates for signing electronic orders for Schedule I and II controlled substances. Registrants and their designated power of attorney holders (POA) who are eligible to sign Forms 222 would apply to the DEA Certification Authority and obtain a digital certificate from it. DEA proposes to act in this capacity either directly or through a contractor.

III. Discussion of the Proposed Rule on Electronic Orders

A. Digital Certificates

How Are Digital Certificates Obtained?

Anyone eligible to sign orders for controlled substances would be able to apply to the DEA Certification Authority for a digital certificate. Under the current rules, DEA requires only orders for Schedule I and II substances to be signed. That requirement will not change. DEA recognizes, however, the registrants who order or fill orders for Schedule III-V substances may want the ability to digitally sign these orders. The digital certificate attached to a digitally signed order would provide the supplier with instant verification of DEA status, which suppliers are required to make a good faith effort to determine. Consequently, DEA intends to make digital certificates available to registrants who are eligible to order only Schedule III through V substances and to employees at Schedule II through V registrants who are authorized to issue only Schedule III through V orders. The requirements for applying for a digital certificate would be the same for any applicant.

Who Are CSOS Coordinators and What Is Their Role in the Digital Certificate Enrollment Process?

CSOS Coordinators are one or more responsible persons designated by a DEA registrant to serve as that registrant's recognized agent regarding issues pertaining to issuance of, revocation of, and changes to digital certificates issued under that registrant's DEA registration. These individuals serve as knowledgeable liaisons between one or more DEA registered locations and the CSOS Certification Authority. While the CSOS Coordinator is the main point of contact between the DEA Certification Authority and the DEA registrant, all digital certificate activities are the responsibility of the registrant with whom the digital certificate is associated. To that end, the CSOS Certification Authority will communicate with the CSOS Coordinator regarding digital certificate applications, renewals, revocations, and other matters. Even when an individual registrant, *i.e.*, an individual practitioner, is applying for a digital certificate to order controlled substances a CSOS Coordinator must be designated. It is acceptable to have the person applying for the registrant digital

certificate also be designated as the CSOS Coordinator. Once designated, the registrant's CSOS Coordinator must identify him or herself to the Certification Authority through an application process. If a change occurs regarding persons designated as CSOS Coordinators, or if a change occurs regarding the registered locations for which a CSOS Coordinator is responsible, the Certification Authority must be notified. For applicants applying for a CSOS digital certificate, and for applicants applying for CSOS power of attorney for a DEA registrant, the CSOS Coordinator must verify the applicant's identity, review and approve the application package, and submit the completed package to the Certification Authority.

How Would a Person Obtain a Digital Certificate?

- An applicant for CSOS Coordinator, an applicant for a digital certificate for signing controlled substance orders, or an applicant for power of attorney would have to submit the following documentation: A completed application form (form provided by the Certification Authority).
- A copy of a government-issued photographic identification and of a second identification.
- For CSOS Coordinators, a copy of each current DEA Certificate of Registration for which the Coordinator will be responsible (DEA form 223), if available, or, if the applicant (or their employer) has not been issued a DEA registration, the application for DEA registration of the applicant or the applicant's employer.
- For individuals with power of attorney (POA) to sign controlled substances orders, a copy of the power of attorney indicating which schedules the person is authorized to order.

For persons applying as CSOS Coordinators, the completed package must be notarized. For persons applying for digital certificates as DEA registrants and for persons applying for digital certificates as powers of attorney for DEA registrants, the completed package must be provided to the registrant's designated CSOS Coordinator who will review and approve the application and send it to the Certification Authority. Because the application includes signed letters and statements, as well as notarization (for CSOS Coordinators only), the application would have to be submitted on paper.

If the Certification Authority approves an application, the applicant would receive an access code and password. The access code and password would be sent in two segments, each sent by a different method. For example, the access code may be mailed while the password is e-mailed. The access code and password would be used to submit an electronic request for a digital certificate. Prior to submitting the request, the applicant would have to obtain software that PKI-enables its system and that can generate the public and private key; most Internet browsers have this capability. The software would generate a public and private key pair. The public key is transmitted to the Certification Authority. The Certification Authority would then issue a signed digital certificate associated with the applicant's public key and a copy of the Certification Authority's public key certificate.

Why Does the Application Need To Be Notarized?

DEA is proposing that the application for registrant CSOS Coordinators be notarized to ensure that the person presenting the photo ID is in fact the person signing the application and to legally tie the person signing the application to it. CSOS Coordinators serve as their registrant's recognized agent regarding issues pertaining to issuance of, revocation of, and changes to digital certificates issued under that registrant's DEA registration. While all digital certificate activities are the responsibility of the registrant with whom the digital certificate is associated, within the Controlled Substances Order System DEA is placing a high level of trust in the CSOS Coordinators associated with each DEA registrant. DEA and its Certification Authority must trust the information CSOS Coordinators provide to DEA and must trust the actions requested by CSOS Coordinators of DEA and its Certification Authority. DEA recognizes that notaries may not be able to determine whether the photo ID is real. Some state driver's licenses can be obtained in other names with relative ease. The package, however, includes not just the photo ID, but also copies of each of the registrant's Certificates of Registration (DEA form 223) for which the CSOS Coordinator will be responsible. These requirements will make it harder for someone to present fraudulent information to pose as a CSOS Coordinator with its attendant rights and responsibilities.

How Many Certificates Will Be Required?

The CSA requires that each location where controlled substances are manufactured, distributed, or dispensed have a separate registration. Forms 222 are issued to specific registrants at specific locations. The CSA also requires that where independent controlled substances activities occur at the same location, (*i.e.,* manufacturing and importation), separate registrations for each activity be maintained at the location. To be the equivalent of a Form 222, a digital certificate must also be registrant and location specific. Consequently, separate digital certificates are required for each DEA registration and for each individual authorized to sign orders for each location.

DEA is aware that some large distributors and chain pharmacies have central inventory control and process all orders from a single location. At present, these central locations maintain the supplies of Form 222 for each of their pharmacies or warehouses and place the orders on the appropriate preprinted form. These registrants have asked whether it would be possible to have a single digital certificate associated with multiple registered locations to ease the burden of maintaining multiple certificates. Because a digital certificate is linked to one DEA registration number the certificate must be bound to the location associated with the registration. It will be possible to have multiple certificates linked to a single registration (*e.g.,* multiple people with POA for a registrant), but a certificate cannot be linked to multiple registered locations. To serve as the electronic equivalent of a Form 222, the digital certificate must be location-specific as the Form 222.

DEA recognizes that in cases of central ordering systems, a single POA may have to obtain more than a thousand separate certificates. DEA is proposing two steps that will reduce the burden on these POAs. First, POAs applying for multiple certificates would be able to submit a single application with a list of the DEA registration numbers for which they are applying for certificates. This process would be similar to batch renewals of registrations.

A second step would reduce the burden of obtaining the certificates. Normally, each certificate has to be generated separately. The POA would have to obtain separate access codes from the CA, generate the keys, and access the CA for each certificate. This process takes about five minutes per certificate. To reduce the burden for POAs applying for large numbers of certificates, DEA is proposing to provide software that would include the access codes and functions for key generation. The registrant could then install the software and allow it to contact the CA and generate all of the certificates

automatically without the applicant having to enter codes individually. DEA believes that these steps will facilitate the application and certificate generation process while retaining the basic integrity of the Form 222 system that links every order to a specific registered location.

What Is the Renewal Period for Digital Certificates?

Digital certificates must be renewed when the DEA registration expires. DEA considered requiring annual renewal of digital certificates, which is the current industry practice. DEA determined, however, that this frequency was not necessary to maintain the security of the system and is proposing that certificates be valid for the life of the registrant's DEA registration. Certificates cannot be valid beyond the life of a DEA registration because the certificate's validity is based on having an active DEA registration. Practically, therefore, manufacturers, distributors, exporters, researchers, chemical analysts, and narcotic treatment programs would have to renew annually because their DEA registrations are valid for one year. Pharmacies, institutional practitioners, teaching institutions, and individual practitioners would have to renew every three years.

The Certification Authority would notify certificate holders of the need to renew the certificate. DEA would permit the digital certificate to be renewed online twice after the original application process, so long as the certificate holder applies for renewal before the DEA registration and digital certificate expire. Upon the third renewal request, the digital certificate holders must re-establish their identity using the initial application process. Although this process is considered a renewal because a new application is not needed, at each renewal, a new set of key pairs would be generated and a new certificate issued. The Certification Authority would arrange a simple online process to renew a certificate. When a certificate holder files a renewal request before the DEA registration expires, DEA would not issue the new certificate until the Certification Authority has determined that the DEA registration on which the certificate is based has been renewed.

If the certificate holder fails to apply for a new certificate before the date on which the DEA registration expires, the certificate holder would have to submit a new application for a certificate, including all of the documents required for an initial application. The same is true if the certificate holder's digital certificate is revoked for any reason.

What Are the Requirements for Companies That Grant Power of Attorney to Authorize Use of Their DEA Registrations?

As noted above, all registrants must designate a CSOS Coordinator to serve as the registrant's recognized agent regarding issues pertaining to issuance of, revocation of, and changes to digital certificates issued under that registrant's DEA registration. One of the responsibilities of the CSOS Coordinator is to oversee the application process for persons applying for a digital certificate as powers of attorney for a registrant. The CSOS Coordinator(s) will be responsible for ensuring that those persons applying for power of attorney authority are permitted by the registrant to possess such authority. DEA believes that the designation of CSOS Coordinators will streamline the power of attorney application process and will provide a safeguard to ensure that only personnel authorized by the registrant are granted power of attorney digital certificates.

Registrants who grant power of attorney status to certain employees to sign orders would be required to do the following:

- Provide a letter granting power of attorney to be submitted with the person's application for a digital certificate.
- Read the statement of registrant obligations regarding power of attorney contained in the subscriber agreement provided by the Certification Authority and sign a statement agreeing to meet the obligations.
- Ensure that powers of attorney use their digital certificates appropriately.
- Notify the Certification Authority, through the CSOS Coordinator responsible for the registered location at which the power of attorney works, within 6 hours of revocation of the power of attorney.
- Notify the Certification Authority, through the CSOS Coordinator responsible for the registered location at which the power of attorney worked, within 6 hours of the time the person leaves the registrant's employ.

The obligations in the statement of registrant obligations are basically to oversee the use of certificates to ensure that they are used only by the certificate holder and to notify the Certification Authority if a certificate holder is no longer authorized to use the registrant's DEA number to order controlled substances.

What Systems Are Required To Use a Digital Signature?

Any system enabled to handle digital signatures may be used provided it meets the following requirements:

1. The cryptographic module must be FIPS 140–2 validated.
2. The digital signature system must be FIPS 186–2 validated and use the RSA algorithm.
3. The hash function must be FIPS 180–1 validated.
4. The system must control the activation of the private key with an authentication mechanism.
5. The system must employ a ten-minute inactivity time period after which the certificate holder must re-authenticate to access the private key.
6. For software implementations, when the signing module is deactivated, the system must clear the plain text private key from the system memory to prevent the unauthorized access to, or use of, the private key.
7. The system must digitally sign and transmit the electronic order.
8. The system must communicate with the Certification Authority directory.
9. The system must have a time system that is within five minutes of the official National Institute of Standards and Technology (NIST) time source.
10. The system must archive digitally signed files.
11. The system must create an order that includes the data fields listed in proposed § 1305.21(b)—these fields are the same fields that exist on the Form 222 that purchasers complete except for the line numbers, total number of lines and purchaser information, *i.e.,* name, address, DEA registration number, authorized schedules, and business activity, all of which are included in the digital certificate which must accompany the order.

The three FIPS standards (discussed in more detail below) are needed to ensure the integrity of the key and hash generating systems. The fourth item requires that the system control access to the private key through a method of authenticating the user. As discussed below, DEA is proposing that certificate holders use at least a password and user ID combination. If a certificate holder elects to use a biometric authentication method, the single biometric (other than voice recognition) would be sufficient.

Item five is needed to ensure that the digital signing capability cannot be accessed by someone other than the certificate holder. DEA is concerned that a certificate holder authenticate himself or herself to the system, open the signing software, and begin signing

orders. If the certificate holder left the computer while the signing system was open, another person could sign orders because the signing software generally does not require reauthentication of the user for each order once the private key has been accessed. The automatic closure of the system if unused for 10 minutes will lessen this threat.

Item six would ensure that the private key cannot be retrieved from the certificate holder's computer memory following its use. Software systems may not automatically clear items from memory when the application is shut down. Therefore, it is necessary to specify that the software clear the private key from the system's memory whenever the signing application is closed to ensure that someone cannot recover the key.

Items seven and eight are the basic requirements for a digital signature system, the ability to sign a document digitally and communicate with the CA.

Item nine requires the system to have a time system within five minutes of the official National Institute of Standards and Technology time source. It is important that all users of the CSOS system be synchronized to a single, consistent time source.

Items 10 and 11 are necessary for the system to function as a substitute for a Form 222. Item 11 requires the creation of an order that includes all of the Form 222 information. Item 10 ensures that the system automatically stores and retains the orders.

What Systems Are Required To Be Able To Process a Digital Signature?

Any system may be used to process an electronic order provided it has been enabled to handle digital signatures and that it meets the following requirements:

1. The digital signature system must be FIPS 186–2 validated and use the RSA algorithm.

2. The hash function must be FIPS 180–1 validated.

3. The system must check the purchaser certificate extension data to determine that the controlled substances ordered are on schedules the purchaser is eligible to order and that the certificate had not expired at the time the order was signed.

4. The system must decrypt the digital signature using the purchaser's public key and determine that an order has not been altered in transmission.

5. The system must check the certificate revocation list and the CA's directory automatically and invalidate any order signed with a certificate listed on the CRL or not included in the CA directory.

6. The system must have a time system that is within five minutes of the official National Institute of Standards and technology time source.

7. The system must archive the order and include the digital certificate linked to the order in the record of each order.

8. The system must require that all authentication and validation steps are carried out prior to allowing the processing of the order to be completed. Further, the system will not allow orders that have failed to pass any authentication or validation step to be processed.

9. If the supplier intends to file a summary report of orders rather than copies of the actual orders, the system must create a report that includes, for each Schedule I and II order, all data fields listed in proposed § 1305.28(a) in a format that DEA specifies. This provision would allow for compliance with the current paper requirement that suppliers forward copy 2 of the DEA Form 222 to the nearest DEA office on a monthly basis.

Items 1 and 2, the three FIPS standards (discussed in more detail below), are needed to ensure the integrity of the key and hash generating systems. Items 3, 4, 5, and 6 are needed to ensure that the system can and does validate each order by checking that the order was signed by the certificate holder, that the order has not been altered, that the registrant is eligible to order the substances, and that the certificate has not expired or been revoked. Item 7 ensures that the system automatically stores and retains the orders. Item 9 requires the creation of a report that includes all of the Form 222 information.

What Are the FIPS Standards and Why Are They Needed?

FIPS means Federal Information Processing Standard. FIPS 140–2 is a standard entitled ''Security Requirements for Cryptographic Modules.'' The standard is produced by the National Institute of Standards and Technology (NIST) to lay out general requirements for cryptographic modules for computer and telecommunications systems. FIPS 186–2 specifies algorithms for applications used to generate digital signatures. FIPS 180–1 is the Secure Hash Standard. The standards have been adopted by the U.S. government and are required for all cryptographic-based security systems and digital signature systems that are used by or approved by Federal agencies to protect unclassified information. DEA, therefore, must require that the software modules used for digital signatures comply with these standards. A list of vendors whose cryptographic modules have been validated as FIPS 140–2 compliant may be obtained from the NIST web site at *http://csrc.nist.gov/cryptval/140–2/1402vend.htm.* Information on FIPS 186–2 and FIPS 180–1 can be obtained from *http://csrc.nist.gov.*

The modules that have been validated as compliant with these standards can be used to enable software to handle digital signatures. As long as the code in the compliant module is not altered, adding it to the software would not alter its validation.

How Is It Possible To Determine Whether a Specific System Meets These Criteria?

Before implementing an electronic system for Schedule I and II controlled substances orders, the software system must be certified by means of a third-party audit that determines the system performs the required functions. Registrants must ensure that any software/system that they use for electronic Schedule I and II orders has been certified. Certification from the software developer/vendor that the product being acquired has received the required audit is sufficient.

After the initial audit, the developer or vendor would be required to have third-party audits whenever the signing or verifying functionality is changed to ensure that the software continues to function as required. Registrants who implement order systems developed by third-party vendors would obtain a certification from the vendor. In instances where suppliers provide their customers with ordering software for use in this system, it would be the supplier's responsibility to ensure this auditing requirement has been satisfied. Individual customers of that supplier would not be required to maintain a copy of the audit report.

DEA recognizes that software systems are modified frequently, as vendors add services and improve functions. Modifications would need to be audited when the modification affects the digital signature or validation part of the system. If the modifications relate to other functions and do not change the digital signature functions or validation functions, modifications would not trigger a need for a third-party audit.

What Are the Requirements for Safeguarding Private Keys?

DEA regulations require that each registrant provide effective controls and procedures to guard against theft and diversion of controlled substances. This requirement applies to both physical and procedural safeguards; a registrant

must take steps to secure the controlled substances and the authorization to obtain and distribute or dispense the controlled substances. In this regard, it is important that the private key be properly secured, since it is the functional equivalent of both the paper DEA Form 222 and the registrant's valid signature on that form.

All certificate holders must provide secure storage for the private key. The private key may be stored on any electronic medium, with access controlled by at least a user ID and password. As noted before, DEA encourages certificate holders and registrants to use biometric passwords instead of user IDs and passwords. Although not a requirement, biometric passwords provide a higher level of assurance that a private key cannot be used by anyone except the certificate holder.

Although DEA is proposing that certificate holders could store private keys on any electronic medium, including a hard drive or a disk, DEA encourages registrants to use smart cards or other secure hardware devices whose cryptographic modules are FIPS 140–2 validated for storing private keys.

Only the individual to whom a digital certificate is issued may use it. The certificate holder must report any loss or compromise of the private key or password to the Certification Authority within 6 hours of the loss or theft. In addition, the certificate holder is responsible for ensuring that others do not have access to the private key. The certificate holder must not give any other person the password or user ID and must ensure that once the private key has been accessed and the system is activated, no one else uses the computer or work station until the system is deactivated.

What Are the Conditions That Would Lead DEA To Revoke a Certificate?

A number of circumstances would require the revocation of a digital certificate. The Certification Authority would automatically revoke a certificate upon notice that the smart card or other hardware storage device has been lost, stolen, or compromised in any fashion, the password has been forgotten, or the private key can no longer be accessed. The certificate would also be revoked if the CA is notified that any of the information in the certificate changed (*e.g.,* name or address, or new schedules added). In addition, a registrant must notify the Certification Authority whenever a specific individual's power of attorney has been revoked, so that the certificate issued in connection with the power of attorney can be revoked.

If a DEA registration is revoked or terminated for any reason, all digital certificates linked to that registration would be revoked because the validity of the certificate is linked to the validity of the DEA registration.

Any disagreement regarding a certificate revocation may be appealed to the Certification Authority in writing. Revocation of a digital certificate in and of itself does not affect a registrant's authority to handle controlled substances; it only affects the ability to engage in electronic transactions that require a digital signature.

B. Orders

This section discusses the specific requirements that relate to electronic orders and how these requirements differ from the current rules for Forms 222.

What Is DEA Proposing for Electronic Orders?

In general, DEA is proposing that purchasers be able to digitally sign and transmit electronic orders for Schedule I and II controlled substances if they use a digital certificate issued by the DEA Certification Authority and comply with the other requirements of proposed part 1311 on software and safeguarding of private keys. Suppliers would be able to validate and fill electronic orders for Schedule I and II controlled substances if they comply with the requirements in proposed part 1311 on software.

Most of the current part 1305 requirements would not change. Orders for Schedule I and II substances must be issued only on Form 222 or an electronic order signed with a valid digital certificate that the DEA Certification Authority issues. The same registrants would be eligible to sign and fill orders. Each party to the transaction would retain a copy and suppliers would send a copy or a data extract to DEA. DEA Form 222 will still be available for use. DEA expects that over time most, if not all, parties placing and filling orders will choose to use electronic orders, but this is not mandatory. Current regulations with respect to DEA Form 222 are not changed by this proposed rule.

What Are the Differences Between DEA Form 222 and Electronic Orders?

There are a number of differences with electronic orders.

- Electronic order systems would need to include the data on the DEA Form 222, except the line numbers, total number of lines, and purchaser information, *i.e.,* name, address, DEA registration number, authorized schedules, and business activity, all of which are included in the digital certificate which must accompany the order. (A discussion of the contents of an electronic order is provided in the next section.)
- Unlike the paper form, which is limited to purchases of Schedule I and II substances, the digitally signed order system may also be used for Schedule III through V substances and non-controlled prescription drugs.
- The DEA Form 222 limits the number of line items ordered to 10; the number of line items on electronic orders is unlimited.
- As discussed later, copies of the electronic orders or a report on the orders must be filed with DEA every other business day rather than every month.
- Electronic records for Schedule I and II controlled substances must, by regulation, be maintained separately from other records. However, DEA considers electronic records of Schedule I and II controlled substances to be maintained separately so long as these records are readily retrievable by schedule and controlled substance.

Each of these differences is discussed in greater detail in subsequent sections.

What Data Must Be Included in an Electronic Order?

The proposed electronic orders would be required to include the following data fields:

(1) A unique number generated by the purchaser to track the order. The number must be in the following 9-character format: the last two digits of the year, the character ''x'', and six numbers of the purchaser's choice.

(2) The name of the supplier.

(3) The complete address of the supplier.

(4) The supplier's DEA registration number (may be completed by either the purchaser or the supplier).

(5) The date the order is signed.

(6) The name (including strength where appropriate) of the controlled substance product.

(7) The National Drug Code (NDC) number (may be completed by the supplier or the purchaser).

(8) The quantity in a single package or container.

(9) The number of packages or containers of each item ordered.

The digital certificate attached to the order provides the purchaser's name, registered location, DEA registration number, business activity, and schedules.

How Can Electronic Orders Be Annotated?

Because the original order has been digitally signed, it cannot be altered.

The supplier and purchaser, both of whom are required to ''annotate'' the file with information on the substances shipped and received, would have to create a separate record with the needed information and electronically link the record of the required information to the original order. The supplier's linked file would have to contain packages shipped and date shipped and any other item on the order that the supplier completes. The purchaser's linked file would have to contain the number of packages received and the date received. The software must archive both the original and the linked record. The original and linked records constitute the complete order form, the equivalent of a Form 222 that has been annotated. The same process would apply to partially filled orders, endorsed orders, or canceled orders; the records of these actions must be linked to the original order and maintained as a record of the transaction. Both the purchaser and the supplier must keep the original digitally signed order and the linked files for a period of two years.

Can An Order Be Endorsed to Another Supplier?

DEA allows suppliers to endorse a DEA Form 222 to another supplier if the first supplier cannot fill the order. This requires the initial supplier to record on the back of each copy of the DEA Form 222 the name and address of the second supplier, and the signature of a person authorized by that initial supplier to obtain and execute order forms. Paper orders must be endorsed in their entirety; a supplier cannot fill part of the order and endorse the rest to a second supplier because the paper 222 must accompany the order.

Electronically, both complete and partial endorsement would be possible. To endorse the whole order to a second supplier, the initial supplier would make a copy of the incoming order, link the copy to a record of the name and address of the secondary supplier, then digitally sign the copy of the order and the linked file using his or her DEA issued digital certificate. The initial supplier may then transmit the original order and linked endorsement record to the secondary supplier. As an alternative, the initial supplier could fill part of the order, create a linked record indicating what had been filled, then endorse the remainder of the order to a second supplier, adding a second linked record with the second supplier's name and address, and digitally signing the order and linked records. The secondary supplier would have to validate both the purchaser's and the initial supplier's digital certificates before filling the order.

Because the customer can easily generate a new electronic order, the supplier may simply choose to notify the purchaser that the order cannot be filled or filled in its entirety, allowing the purchaser to directly place the order electronically with another supplier. The supplier would then create a linked record voiding all or part of the order.

Can a Centralized Processing Facility Be Used?

DEA has determined that with electronic orders, it is possible for a distributor to process an order centrally and have separate registered locations belonging to the same distributor fill parts of the order. DEA is, therefore, proposing to allow purchasers to transmit orders to a specific supplier. The supplier may initially process the orders (*e.g.*, entry of the order into the computer system, billing functions, inventory identification, etc.) centrally at any location, regardless of its registration with DEA. Following centralized processing, the order is distributed to one or more registered locations maintained by the supplier for filling. The registrant must maintain control of the processing of the order at all times. This proposed approach to decentralized filling of orders applies only to registered locations that belong to the same company. This approach would allow distributors to maximize the efficiency of their distribution system without compromising the system of control of Schedule I and II substances.

What Information Is a Supplier Required To Report To DEA?

Under the current regulations, suppliers must send DEA copies of filled DEA Forms 222 on a monthly basis. With electronic orders, DEA is proposing that suppliers submit copies of the electronic orders and linked records to DEA every other business day based on when the order is filled; these orders may include information on substances other than Schedule I and II substances. In lieu of submitting copies of orders, suppliers may submit a daily report that contains the following information on Schedule I and II controlled substances from each electronic order:

(1) The supplier's name.

(2) The supplier's complete address.

(3) The supplier's DEA registration number.

(4) The purchaser's name.

(5) The purchaser's complete address.

(6) The purchaser's DEA registration number.

(7) The schedules the purchaser is authorized to receive.

(8) The purchaser's business activity.

(9) The unique tracking number the purchaser assigned to the order.

(10) The date the order was signed.

(11) The name of the controlled substance product.

(12) The National Drug Code (NDC) number of the controlled substance.

(13) The quantity in a single package or container.

(14) The number of packages or containers of each item ordered.

(15) The number of packages or containers shipped.

(16) The date shipped.

Because any orders or reports sent to DEA must be readable by DEA offices, DEA intends to specify, before the rule is final, the formats in which the information may be submitted. DEA requests comments on which software platforms and systems registrants would be likely to use to submit either the electronic orders or reports.

Why Does the Reporting Period Change for Electronic Orders?

In the paper system, DEA serially numbers all order forms. DEA requires that copy 2 of these order forms be submitted to the Administration on a monthly basis. DEA's requirements under the paper system are such that all order forms issued to any registrant must be accounted for. All forms issued by DEA are traceable to the specific registrant to whom they were issued. In addition, currently mandated supplier reports to DEA contain the order form number involved in all transactions completed. This ensures that Schedule I and II controlled substances will not be distributed without DEA's knowledge. Due to the significant volume of paper involved in the current process, DEA requires copy 2 of the Form 222 to be forwarded to DEA once monthly to limit the paper handling. This monthly reporting has little effect on DEA's ability to monitor and track all orders by serial number.

The electronic system does not involve the use of serially numbered, DEA-issued forms. Consequently, DEA's ability to track and account for orders must rely on timely reports by the suppliers. DEA determined that the 30-day reporting period is too long for electronic orders. Because all order reporting would be handled electronically, the daily transmission of reports should represent a minimal burden on suppliers.

Can a Digital Certificate be Used to Sign Orders for Schedule III through V Controlled Substances?

A digital certificate may be used to sign orders for other substances including Schedule III through V controlled substances. DEA encourages the use of the DEA digital certificate to sign all controlled substances orders. Using a DEA issued digital certificate to order Schedule III through V substances provides the supplier with confirmation of the customer's registration status in compliance with 21 CFR 1301.74(a).

IV. Section by Section Discussion of the Proposed Rule

How Is the Proposed Rule Structured?

DEA is proposing to revise part 1305 and add a new part for digital certificates, new Part 1311, as follows:

- DEA is proposing to revise the entire part 1305 to incorporate requirements for the use of electronic orders. Part 1305 requirements would be grouped into three subparts: Subpart A would include general requirements that apply to both Form 222 and electronic orders. Subpart B would include requirements for DEA Form 222 transactions. Subpart C would include requirements for electronic orders.
- Part 1311—DEA is proposing to add a new part that would provide the requirements for the following:
- Performance standards for electronic signatures and electronic transmission.
- Applications for digital certificates.
- Number of certificates required.
- Renewal of certificates.
- Safeguarding of certificates.
- Use of digital signatures.
- Software requirements for handling digital signatures.

In part 1305, Sections 1305.01 and 1305.02 remain unchanged.

Section 1305.03 is proposed to be revised to explain that either Form 222 or an electronic order that complies with part 1311 could be used.

Section 1305.04 is proposed to be revised to include the power of attorney requirements currently found in 21 CFR 1305.07.

Section 1305.05 is redesignated as 1305.11, and includes specific references to DEA Form 222.

Section 1305.06 is redesignated as 1305.12, and includes specific references to DEA Form 222.

Section 1305.07 is removed.

Section 1305.08 is redesignated as Section 1305.05, and includes specific references to DEA Form 222.

Sections 1305.09–1305.15 are redesignated as Sections 1305.13–1305.19, and include specific references to DEA Form 222.

Section 1305.16 is redesignated as Section 1305.06.

To accommodate the new electronic order requirements, Sections 1305.21–1305.28 are proposed to be added as follows:

Section 1305.21 discusses requirements for electronic orders.

Section 1305.22 discusses procedures for filling electronic orders.

Section 1305.23 discusses endorsing electronic orders.

Section 1305.24 discusses central processing of orders.

Section 1305.25 discusses unaccepted and defective electronic orders.

Section 1305.26 discusses lost electronic orders.

Section 1305.27 discusses preservation of electronic orders.

Section 1305.28 discusses canceling and voiding electronic orders.

Section 1305.29 discusses reporting electronic orders to DEA.

PART 1305 DISTRIBUTION TABLE

Old section	New section
1305.01—Scope of part 1305	1305.01—Scope of part 1305.
1305.02—Definitions	1305.02—Definitions.
1305.03—Distributions requiring order forms	1305.03—Distributions requiring order forms.
1305.04—Persons entitled to obtain forms order form	1305.04—Persons entitled to obtain and execute order forms.
1305.05—Procedure for obtaining order forms	1305.11—Procedure for obtaining DEA Forms 222.
1305.06—Procedure for executing order forms	1305.12—Procedure for executing DEA Forms 222.
1305.07—Power of attorney	1305.04(c)—Power of attorney.
1305.08—Persons entitled to fill order forms	1305.05—Persons entitled to fill DEA Forms 222.
1305.09—Procedure for filling order forms	1305.13—Procedure for filling DEA Forms 222.
1305.10—Procedure for endorsing order forms	1305.14—Procedure for endorsing DEA Forms 222.
1305.11—Unaccepted and defective order forms	1305.15—Unaccepted and defective DEA Forms 222.
1305.12—Lost and stolen order forms	1305.16—Lost and stolen DEA Forms 222.
1305.13—Preservation of order forms	1305.17—Preservation of DEA Forms 222.
1305.14—Return of unused order forms	1305.18—Return of unused DEA Forms 222.
1305.15—Cancellation and voiding of order forms	1305.19—Cancellation and voiding of DEA Forms 222.
1305.16—Special procedure for filling certain order forms	1305.06—Special procedure for filling certain DEA Forms 222.

New sections (added)
1305.21—Requirements for electronic orders.
1305.22—Procedure for filling electronic orders.
1305.23—Endorsing electronic orders.
1305.24—Central processing of orders.
1305.25—Unaccepted and defective electronic orders.
1305.26—Lost electronic orders.
1305.27—Preservation of electronic orders.
1305.28—Cancelling and voiding electronic orders.
1305.29—Reporting to DEA

Part 1311 is proposed to be added to provide requirements for obtaining, handling, and using digital certificates. Note that DEA is proposing, in a separate notice, rules for obtaining, handling, and using digital certificates to sign controlled substance prescriptions. Because the requirements are the same in some instances, some of the proposed sections cover both orders and prescriptions.

Section 1311.01 discusses the scope of the new part.

Section 1311.02 is proposed to add definitions of the following:

- Biometric authentication.
- Cache
- Certification Authority
- Certificate policy
- Certificate revocation list
- Digital certificate
- Digital signature
- Electronic signature
- FIPS
- Key pair
- NIST
- Private key
- Public Key

The definitions are taken from other government documents that define these terms.

Section 1311.05 proposes to specify the performance standards required for electronic signatures and transmission.

Section 1311.08 proposes to incorporate by reference FIPS 140–2, FIPS 180–1, and FIPS 186–2.

Section 1311.20 proposes to specify the application requirements for obtaining a digital certificate.

Section 1311.30 proposes to provide the requirements for using and storing a digital certificate.

Section 1311.40 proposes to specify the number of certificates needed.

Section 1311.45 proposes to specify when a new certificate must be obtained.

Section 1311.50 proposes to provide requirements for registrants that grant power of attorney authority.

Section 1311.55 proposes to specify requirements for recipients handling electronic orders prior to filling them.

Section 1311.60 proposes to specify software requirements for handling electronic orders.

Section 1311.65 proposes recordkeeping requirements.

Incorporation by Reference

The following standards are proposed to be incorporated by reference:

- FIPS 140–2, Security Requirements for Cryptographic Modules.
- FIPS 180–1, Secure Hash Standard.
- FIPS 186–2, Digital Signature Standard.

These standards are available from the National Institute of Standards and Technology, Computer Security Division, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, MD 20899–8930 and are available at *http://csrc.nist.gov/.*

V. Required Analyses

Executive Order 12866

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

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

(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.

Since the proposed rule would not impose costs of $100 million a year and will in fact reduce the burden on DEA registrants, DEA does not consider this rule to be an economically significant regulatory action as defined. However, this rule has been reviewed by the Office of Management and Budget.

DEA did, in the course of developing the proposed rules, consider the costs and benefits of the proposed rule.

DEA registration figures indicate that approximately 101,000 registrants are likely to issue or fill orders. Those issuing orders include pharmacies, hospitals and clinics, practitioners, teaching institutions, exporters, researchers, chemical analysts, narcotic treatment programs, distributors, and manufacturers. Distributors, manufacturers, and importers fill most orders for Schedule I and II controlled substances. The universe of digital certificate holders is larger than the universe of registrants because everyone with power of attorney authority will need to obtain a digital certificate. For purposes of this analysis, DEA assumed that manufacturers and distributors would have an average of six certificate holders per registered location; pharmacies, hospitals, clinics, teaching institutions, and exporters, an average of two. The four chain pharmacies that process orders centrally for their 9,900 pharmacies are assumed to have six certificate holders each. All other registrants are assumed to have a single person associated with a registration seeking a digital certificate. Overall, DEA estimates that approximately 160,000 digital certificates will be requested.

The primary costs in the current system are completing the Form 222 and mailing it to the supplier, requisitioning Forms 222, entering the data from the form, annotating the forms, logging and tracking forms, archiving the annotated forms, and sending them to DEA. Table 1 shows the unit time estimates and costs for mailing orders and requisitions (Operations and Maintenance (O&M) costs). Table 2 presents the estimate to total annual cost of the Form 222 system.

TABLE 1.—UNIT TIME AND FIXED COST ASSUMPTIONS FOR FORM 222

Activity	Hours	O&M cost
Purchaser:		
Requisition forms	0.05	$0.37
Complete and express ship orders	0.25	11.25
Complete and mail orders	0.25	0.37
Annotate file	0.05	
Log and file forms	0.033	
Supplier:		
Annotate forms	0.083	
Enter and file forms	0.25	
Log and track forms, prepare for mailing to DEA	9	17.25

TABLE 2.—TOTAL ANNUAL HOURS AND COSTS FOR THE FORM 222 SYSTEM

Activity	Total hours	Total labor cost	Total capital and O&M cost	Total
Completing and mailing orders	1,334,648	$100,232,000	$5,853,000	$106,085,000
Requisitioning Form 222s	3,467	260,000	26,000	286,000
Annotating and filing	2,224,413	99,364,000	405,000	99,768,000
Sending orders to DEA	85,428	3,008,000	164,000	3,172,000
Total	3,647,956	202,864,000	6,447,000	209,311,000

The proposed system of digital certificates would impose initial implementation costs and on-going costs. People seeking a digital certificate would have to complete the application, generate keys, learn how to use the

digital certificate, and implement the software systems to handle electronic orders. Based on a pilot project (67 FR 1507, January 11, 2002), DEA assumes that completing the application, which is primarily collecting paperwork, and generating keys and learning to use the system would take about 1.5 hours per applicant. DEA further assumes that a limited number of registrants (estimated at 256) would develop or purchase their software systems. These registrants are likely to be manufacturers, chain drug stores, and distributors. DEA assumes that they would provide the software to other registrants. The ongoing costs include the time required to digitally sign and validate the order and the time to annotate the order. Tables 3 and 4 provide the unit time estimates for initial and annual compliance of the electronic system. Tables 5 and 6 present total costs for initial and annual compliance.

TABLE 3.—UNIT TIME AND FIXED COST ASSUMPTIONS FOR ELECTRONIC ORDERS—INITIAL COMPLIANCE

Task	Entity	Hours/person	Fixed cost
Complete application	Supplier	0.72/1.24*	
	Purchaser		
Generate keys	Supplier	0.10	
	Purchaser		
Learn to use system	Purchaser	0.417	
	Supplier		
Implementing software	Supplier	40/firm	
	Purchaser	8.00/firm	
	Practitioner	0.50	
Notarize and mail application			$2.37

*Higher value is for the CSOS coordinator.

TABLE 4.—UNIT COSTS FOR ELECTRONIC ORDERS—ANNUAL COMPLIANCE

Activity	Entity	Unit hours
Signing orders	Purchaser	0.006/order.
Validating orders	Supplier	0.004/order.
	Purchaser	0.025/order.
Annotating orders	Supplier	0.042/order.
Sending orders to DEA	Supplier	0.05/every 2nd day.
Renewing certificate	Purchaser	0.083/person.
	Supplier	
Renewing certificate (every third renewal)	Purchaser	0.36 hour/person.
	Supplier	

TABLE 5.—TOTAL INITIAL COMPLIANCE HOURS AND COSTS FOR THE ELECTRONIC ORDER SYSTEM

	Total hours	Total labor cost	Total capital and O&M cost	Total cost
Supplier:				
Complete Application	3,649	$224,000	$2,400	$226,000
Implement software	304	758,000		758,000
Generate keys	452	28,000		28,000
Learn to use system	1,884	119,000		119,000
Purchaser:				
Complete Application	150,424	11,312,000	252,000	11,564,000
Implement software	400,307	15,113,000		15,113,000
Generate keys	15,561	1,169,000		1,169,000
Learn to use system	32,870	2,469,000		2,469,000
Software Developers	512,000	39,250,000		39,250,000
Total	1,127,000	70,440,000	254,000	70,694,000

TABLE 6.—TOTAL ANNUAL COMPLIANCE HOURS AND COSTS FOR THE ELECTRONIC ORDER SYSTEM

	Total hours	Total labor cost	Total capital and O&M cost	Total cost
Supplier/Purchaser:				
Sign orders	29,659	$2,227,000		$2,227,000
Supplier:				
Validate orders	22,244	1,401,000		1,401,000
Collect and send to DEA	5,960	375,000		375,000
Annotate	222,411	14,007,131		14,007,131
Renew certificate	377	24,000		24,000
Purchaser:				
Annotate	133,465	10,023,000		10,023,000
Renew certificate	4,833	363,000		363,000

TABLE 6.—TOTAL ANNUAL COMPLIANCE HOURS AND COSTS FOR THE ELECTRONIC ORDER SYSTEM—Continued

	Total hours	Total labor cost	Total capital and O&M cost	Total cost
Software Developer	157,012	3,060,000	353,000	3,414,000
Total	575,992	31,481,000	353,000	31,834,000

To estimate costs over the first ten years, DEA assumed that implementation would be phased in over the first five years (*i.e.*, it would be five years before all registrants were using the electronic order system). DEA also assumed that the number of orders would increase six percent annually. The six percent increase is based on the average annual increase in orders over the last six years. The total cost of both systems was estimated using a seven percent and a three percent discount rate. Table 7 presents the ten-year total cost of the Form 222 system, the electronic system, and the combined systems as the electronic system is phased in over the first five years as well as the annualized cost of the three systems over ten years.

TABLE 7.—TOTAL COST OVER TEN YEARS (PRESENT VALUE)

	Paper system	Combined phase-in	Electronic system
Total (7%)	2,002,634,000	$628,668,000	$316,786,000
Annualized (7%)	285,131,000	89,508,000	45,103,000
Total (3%)	2,383,841,000	696,134,000	375,314,000
Annualized (3%)	279,450,000	81,608,000	43,998,000

Over the full ten-year period, the electronic system (phased in over five years) will reduce costs to registrants by about $1.4 billion. The primary reason for the savings is that ordering and filling controlled substances orders takes substantially less time when the orders are electronic.

Another way to look at this cost savings is to consider the costs of filling out a Form 222 versus creating the order electronically and digitally signing it. Although purchasers need to complete an order as a part of doing business, DEA has estimated that it takes a purchaser 15 minutes to complete the Form 222, in triplicate, by hand or with a typewriter. The Form 222 may contain only Schedule I and II controlled substances. Consequently, purchasers must complete it separately from other orders being sent to the same supplier. Some purchasers report that they now routinely transmit all of their orders electronically, including their orders for Schedule I and II controlled substances, and complete the Form 222 to document the order for DEA. In comparison, applying a digital signature to an order, which may contain non-controlled substances, is estimated to take 20 seconds. Leaving aside all other costs, purchasers will be saving more than 14 minutes per order. In addition, suppliers must enter the orders into their systems. Both suppliers and purchasers must annotate and file the orders. Over ten years, the time saved in completing, validating, annotating, and filing orders is estimated to be approximately 42 million hours, an 89 percent reduction. The electronic system will have time associated with initial compliance that will offset some of the hours savings, but DEA registrants should benefit from a far more efficient ordering system.

Electronic orders will also provide a number of other benefits that cannot be quantified. Purchasers will be able to create single unified controlled substance orders to their suppliers. With Forms 222, purchasers must create the separate Form 222 for the Schedule I and II controlled substances and complete other orders for all other controlled substance purchases from a particular supplier. If a purchaser needs more than 10 Schedule I or II substances, multiple Forms 222 must be completed because the form is limited to ten items. With the electronic orders, they will be able to submit a single order covering all controlled substances and other prescription drugs being purchased from the supplier. The combined orders should reduce the orders that need to be logged, tracked, and handled by both purchasers and suppliers.

Electronic orders should also bring faster receipt of controlled substances. Under the present system, the purchaser has the choice of sending the order by overnight service at considerable cost, mailing it and waiting several days, or sending the order back with the delivery truck, which may not be returning directly to the distributor. In most cases, the purchaser is likely to have to wait at least two days and possibly four or five days when the order is mailed or is shipped back by truck. If the distributor that receives the order cannot fill it, the distributor may endorse it to another distributor and ship it on to another distribution point, further delaying the final shipment. Electronic orders will be received almost instantly and can be shipped the same day. This speed may allow purchasers to order only when they need an item and limit the quantity of controlled substances that they stock. Limiting the quantity of Schedule I and II controlled substances in stock reduces the possibility of diversion and the cost of security.

With the Form 222, if a supplier cannot fill all of an order, the supplier may endorse the entire order over to another supplier. The order cannot be divided and filled in part by one supplier and in part by a second, even if both suppliers belong to the same company. Because each location holds a separate registration, a distributor with multiple locations must maintain stocks of all Schedule I and II controlled substances at each location to be able to fill orders for these substances from that location. With electronic orders, DEA will allow a distributor with a central distribution system to divide an order and ship parts of the order from different distribution points. New orders will not need to be generated because the central computer system can track each item in the order and ensure that it is shipped to the appropriate registrant only once. DEA and the

supplier will have the records necessary to maintain the closed system of control while allowing the supplier to take advantage of its own system of distribution.

A copy of the economic analysis for this proposed rule can be obtained by contacting the Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297 or on the Diversion Control Program web site, *http://www.deadiversion.usdoj.gov.* DEA solicits comments on the economic analysis and the reasonableness of the assumptions.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, Federal agencies must evaluate the impact of rules on small entities and consider less burdensome alternatives. As discussed in the previous section DEA has conducted a preliminary cost benefit analysis on this proposal. As part of that analysis, DEA evaluated the impact on small entities. DEA has determined that this rule would affect a substantial number of small entities. DEA estimates that about one third of the manufacturers and hospitals, 40 percent of clinics and pharmacies would meet the Small Business Administration definition of ''small business.'' Practitioners and narcotic treatment programs are all assumed to be small.

The proposed rule, however, would reduce the burden for registrants over time. DEA, in developing its approach, considered the impact on small businesses and has tried to design an approach that will impose the least costs on businesses consistent with meeting the mandate of the CSA. DEA considered developing an electronic Form 222, which would have been the most direct way to meet the mandate of the CSA for a form issued by DEA. DEA worked extensively with the regulated community throughout the development of this proposal, and realized that requiring the use of a specific form would force businesses to alter their established electronic ordering systems to accommodate a form that might not be consistent with their software platforms. DEA decided that such changes would be unnecessarily costly. Instead, DEA has proposed a system for digital signatures that can be added to any software platform and, therefore, would require limited reprogramming.

DEA, as part of its economic analysis, considered the costs of the existing system and the proposed approach for small entities. The annualized costs of the Form 222 system for the smallest entities (clinics with less than $100,000 in revenues), are less than 1.45 percent of annual revenues; for these clinics, the annual costs of the proposed rule are about 0.15 percent of annual revenues. For most small entities affected by the rule, the cost of the electronic system will be less than 0.1 percent of revenues or sales. Consequently, the Acting Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

A copy of the small business analysis for this proposed rule, which is section 7 of the economic analysis, can be obtained from the Diversion Control Program web site or by contacting the Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection requests to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, DEA is required to estimate the burden hours and other costs of any requirement for recordkeeping and reporting over a three-year period. Therefore, DEA is proposing the revision of an existing collection of information *U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Order Form Requisition*, and the creation of a new collection of information *Reporting and Recordkeeping for Digital Certificates* under the Paperwork Reduction Act of 1995. This process is conducted in accordance with 5 CFR 1320.11. The Information Collection Request has been submitted to the Office of Management and Budget for review under section 307 of the Paperwork Reduction Act. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Justice.

Written comments and suggestions are requested from the public and affected agencies concerning the proposed collections of information.

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 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.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, if applicable, or additional information, please contact Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

Overview of U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Order Form Requisition Information Collection

(1) Type of information collection: Revision of existing collection.

(2) The title of the form/collection: U.S. Official Order Forms for Schedule I and II Controlled Substances (Accountable Forms), Order Form Requisition.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form No.: DEA Form 222, U.S. Official Order Forms for Schedule I and II Controlled Substances (Accountable Forms).

DEA–222a: Order Form Requisition.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: Non-profit, state and local governments.

Abstract: DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data is needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Persons may also digitally sign and transmit orders for controlled substances electronically, using a digital certificate. Orders for Schedule I and II controlled substances are archived and transmitted to DEA. Respondents are DEA registrants eligible to handle these controlled substances.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: DEA estimates that the proposed rule would affect 100,000 registrants. The average time for requisitioning Form 222 is 0.05 hours. The average time for completing, annotating and filing paper orders for both purchasers and suppliers is 0.333 hours. Suppliers spend, on average, 9 hours a month logging and tracking order forms and preparing the mailing to DEA. The average time for signing and annotating electronic orders is estimated to be 0.031 hours per order for purchasers; the average time for validating and annotating electronic orders is estimated to be 0.046 hours per order for suppliers, who also spend 0.05 hours every other business day sending orders to DEA.

(6) An estimate of the total public burden (in hours) associated with the collection: As registrants adopt the proposed electronic ordering, the annual burden hours would average 1.9 million hours a year. During this period, DEA assumes that 20 percent of orders would be electronic in year 1, 60 percent in year 2, and 80 percent in year 3, based on a 6% growth rate for orders per year.

Overview of Reporting and Recordkeeping for Digital Certificates Information Collection

(1) Type of information collection: New collection.

(2) The title of the form/collection: Reporting and Recordkeeping for Digital Certificates.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form No.: (numbers not yet assigned).

New CSOS DEA Registrant Certificate Application.

New CSOS Principal Coordinator/ Alternate Coordinator Certificate Application.

New CSOS Power of Attorney Certificate Application.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: Non-profit, state and local governments.

Abstract: Persons use these forms to apply for DEA-issued digital certificates to order Schedule I and II controlled substances. Certificates must be renewed upon renewal of the DEA registration to which the certificate is linked. Certificates may be revoked at the discretion of the registrant.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: DEA estimates that the proposed rule would affect 100,000 registrants and 160,000 certificate holders. The average time for completing the application for a digital certificate to order controlled substances is estimated to be from 0.72 hours to 1.24 hours. Certificate renewal is estimated to take 0.083 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: As registrants adopt the proposed electronic ordering, the annual burden hours would average 167,000 hours a year. During this period, DEA assumes that 80 percent of the potential certificate holders will apply for a digital certificate.

If additional information is required regarding these collections of information, contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Executive Order 12988

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

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and 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.

List of Subjects

21 CFR 1305

Drug traffic control, Reporting and recordkeeping requirements.

21 CFR 1311

Administrative practice and procedure, Certification authorities, Controlled substances, Digital certificates, Drug traffic control, Electronic signatures, Prescription drugs, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1305 is proposed to be revised, and part 1311 is proposed to be added as follows:

1. Part 1305 is revised to read as follows:

PART 1305—ORDERS FOR SCHEDULE I AND II CONTROLLED SUBSTANCES

Subpart A—General Requirements

1305.01 Scope of part 1305.
1305.02 Definitions.
1305.03 Distributions requiring a Form 222 or digitally signed electronic order.
1305.04 Persons entitled to order Schedule I and II controlled substances.
1305.05 Persons entitled to fill orders for Schedule I and II controlled substances.
1305.06 Special procedure for filling certain orders.

Subpart B—DEA Form 222

1305.11 Procedure for obtaining DEA Forms 222.
1305.12 Procedure for executing DEA Forms 222.
1305.13 Procedure for filling DEA Forms 222.
1305.14 Procedure for endorsing DEA Forms 222.
1305.15 Unaccepted and defective DEA Forms 222.
1305.16 Lost and stolen DEA Forms 222.

1305.17 Preservation of DEA Forms 222.
1305.18 Return of unused DEA Forms 222.
1305.19 Cancellation and voiding of DEA Forms 222.

Subpart C—Electronic Orders

1305.21 Requirements for electronic orders.
1305.22 Procedure for filling electronic orders.
1305.23 Endorsing electronic orders.
1305.24 Central processing of orders.
1305.25 Unaccepted and defective electronic orders.
1305.26 Lost electronic orders.
1305.27 Preservation of electronic orders.
1305.28 Canceling and voiding electronic orders.
1305.29 Reporting to DEA.

Authority: 21 U.S.C. 821, 828, 871(b), unless otherwise noted.

Subpart A—General Requirements

§ 1305.01 Scope of part 1305.

This part sets forth procedures governing the issuance, use, and preservation of orders for Schedule I and II controlled substances.

§ 1305.02 Definitions.

Any term contained in this part shall have the definition set forth in the Act or part 1300 of this chapter.

§ 1305.03 Distributions requiring a Form 222 or a digitally signed electronic order.

Either a DEA Form 222 or its electronic equivalent as set forth in subpart C of this part and Part 1311 of this chapter is required for each distribution of a Schedule I or II controlled substance except for the following:

(a) Distributions to persons exempted from registration under Part 1301 of this chapter.

(b) Exports from the United States which conform with the requirements of the Act.

(c) Deliveries to a registered analytical laboratory or its agent approved by DEA.

(d) Delivery from a central fill pharmacy, as defined in § 1300.01(b)(43), to a retail pharmacy.

§ 1305.04 Persons entitled to order Schedule I and II controlled substances.

(a) Only persons who are registered with DEA to handle controlled substances listed in Schedules I or II, and persons who are registered with DEA to export these substances may obtain and use DEA Form 222 (order forms) or issue electronic orders for these substances. Persons not registered to handle controlled substances listed in Schedule I or II and persons registered only to import controlled substances are not entitled to obtain Form 222 or issue electronic orders for these substances.

(b) An order for Schedule I or II controlled substances may be executed only on behalf of the registrant named on the order and only if his or her registration for the substances being purchased has not expired or been revoked or suspended.

(c) A registrant may authorize one or more individuals, whether or not located at his or her registered location, to issue orders for Schedule I and II controlled substances on the registrant's behalf by executing a power of attorney for each such individual, provided that:

(1) The power of attorney is retained in the files, with executed Forms 222 where applicable, for the same period as any order bearing the signature of the attorney. The power of attorney must be available for inspection together with other order records.

(2) A registrant may revoke any power of attorney at any time by executing a notice of revocation.

(3) The power of attorney and notice of revocation must be similar to the following format:

Power of Attorney for DEA Forms 222 and electronic orders

_____(Name of registrant)

_____(Address of registrant)

_____(DEA registration number)

I,_____(name of person granting power), the undersigned, who am authorized to sign the current application for registration of the above-named registrant under the Controlled Substances Act or Controlled Substances Import and Export Act, have made, constituted, and appointed, and by these presents, do make, constitute, and appoint_____(name of attorney-in-fact), my true and lawful attorney for me in my name, place, and stead, to execute applications for Forms 222 and to sign orders for Schedule I and II controlled substances, in accordance with section 308 of the Controlled Substances Act (21 U.S.C. 828) and part 1305 of Title 21 of the Code of Federal Regulations. I hereby ratify and confirm all that said attorney must lawfully do or cause to be done by virtue hereof.

_____

(Signature of person granting power)

I,_____(name of attorney-in-fact), hereby affirm that I am the person named herein as attorney-in-fact and that the signature affixed hereto is my signature.

(signature of attorney-in-fact)

Witnesses:

1._____

2._____

Signed and dated on the _____day of _____ (year), at _____.

Notice of Revocation.

The foregoing power of attorney is hereby revoked by the undersigned, who is authorized to sign the current application for registration of the above-named registrant under the Controlled Substances Act or the Controlled Substances Import and Export Act. Written notice of this revocation has been given to the attorney-in-fact_____this same day.

_____

(Signature of person revoking power)

Witnesses:

1._____.

2._____.

Signed and dated on the _____ day of _____, (year), at _____.

(4) A power of attorney must be executed by the following persons:

(i) When on paper, the person who signed the most recent application for DEA registration or reregistration; the person to whom the power of attorney is being granted; and two witnesses.

(ii) [Reserved.]

(5) A power of attorney must be revoked by the following persons:

(i) When on paper, the person who signed the most recent application for DEA registration or reregistration, and two witnesses.

(ii) [Reserved.]

§ 1305.05 Persons entitled to fill orders for Schedule I and II controlled substances.

An order for Schedule I and II controlled substances, whether on a DEA Form 222 or an electronic order, may be filled only by a person registered with DEA as a manufacturer or distributor of controlled substances listed in Schedule I or II or as an importer of such substances, except for the following:

(a) A person registered with DEA to dispense such substances, or to export such substances, if he/she is discontinuing business or if his/her registration is expiring without reregistration, may dispose of any controlled substances listed in Schedule I or II in his/her possession with a DEA Form 222 or an electronic order in accordance with § 1301.52 of this chapter.

(b) A purchaser who has obtained any controlled substance in Schedule I or II by either a DEA Form 222 or an electronic order may return the substance to the supplier of the substance with either a DEA Form 222 or an electronic order from the supplier.

(c) A person registered to dispense Schedule II substances may distribute the substances to another dispenser with either a DEA Form 222 or an electronic order only in the circumstances described in § 1307.11 of this chapter.

(d) A person registered or authorized to conduct chemical analysis or research

with controlled substances may distribute a controlled substance listed in Schedule I or II to another person registered or authorized to conduct chemical analysis, instructional activities, or research with such substances with either a DEA Form 222 or an electronic order, if the distribution is for the purpose of furthering the chemical analysis, instructional activities, or research.

(e) A person registered as a compounder of narcotic substances for use at off-site locations in conjunction with a narcotic treatment program at the compounding location, who is authorized to handle Schedule II narcotics, is authorized to fill either a DEA Form 222 or an electronic order for distribution of narcotic drugs to off-site narcotic treatment programs only.

§ 1305.06 Special procedure for filling certain orders.

A supplier of carfentanil, etorphine hydrochloride, or diprenorphine, if he or she determines that the purchaser is a veterinarian engaged in zoo and exotic animal practice, wildlife management programs, or research, and is authorized by the Administrator to handle these substances, may fill the order in accordance with the procedures set forth in § 1305.17 except that:

(a) A DEA Form 222 or an electronic order for carfentanil, etorphine hydrochloride, and diprenorphine must contain only these substances in reasonable quantities, and

(b) The substances must be shipped, under secure conditions using substantial packaging material with no markings on the outside that would indicate the content, only to the purchaser's registered location.

Subpart B—DEA Form 222

§ 1305.11 Procedure for obtaining DEA Forms 222.

(a) DEA Forms 222 are issued in mailing envelopes containing either seven or fourteen forms, each form containing an original, duplicate, and triplicate copy (respectively, Copy 1, Copy 2, and Copy 3). A limit, which is based on the business activity of the registrant, will be imposed on the number of DEA Forms 222, which will be furnished on any requisition unless additional forms are specifically requested and a reasonable need for such additional forms is shown.

(b) Any person applying for a registration that would entitle him or her to obtain a DEA Form 222 may requisition such forms by so indicating on the application form; a DEA Form 222 will be supplied upon the registration of the applicant. Any person holding a registration entitling him or her to obtain a DEA Form 222 may requisition such forms for the first time by contacting any Division Office or the Registration Unit of the Administration. Any person already holding a DEA Form 222 may requisition additional forms on DEA Form 222a, which is mailed to a registrant approximately 30 days after each shipment of DEA Forms 222 to that registrant, or by contacting any Division Office or the Registration Unit of the Administration. All requisition forms (DEA Form 222a) must be submitted to the DEA Registration Unit.

(c) Each requisition must show the name, address, and registration number of the registrant and the number of books of DEA Forms 222 desired. Each requisition must be signed and dated by the same person who signed the most recent application for registration or for reregistration, or by any person authorized to obtain and execute DEA Forms 222 by a power of attorney under § 1305.04(c).

(d) DEA Forms 222 will be serially numbered and issued with the name, address, and registration number of the registrant, the authorized activity, and schedules of the registrant. This information cannot be altered or changed by the registrant; any errors must be corrected by the Registration Unit of the Administration by returning the forms with notification of the error.

§ 1305.12 Procedure for executing DEA Forms 222.

(a) A purchaser must prepare and execute a DEA Form 222 simultaneously in triplicate by means of interleaved carbon sheets that are part of the DEA Form 222. DEA Form 222 must be prepared by use of a typewriter, pen, or indelible pencil.

(b) Only one item may be entered on each numbered line. An item must consist of one or more commercial or bulk containers of the same finished or bulk form and quantity of the same substance. The number of lines completed must be noted on that form at the bottom of the form, in the space provided. DEA Forms 222 for carfentanil, etorphine hydrochloride, and diprenorphine must contain only these substances.

(c) The name and address of the supplier from whom the controlled substances are being ordered must be entered on the form. Only one supplier may be listed on any form.

(d) Each DEA Form 222 must be signed and dated by a person authorized to sign an application for registration. The name of the purchaser, if different from the individual signing the DEA Form 222, must also be inserted in the signature space.

(e) Unexecuted DEA Forms 222 may be kept and may be executed at a location other than the registered location printed on the form, provided that all unexecuted forms are delivered promptly to the registered location upon an inspection of such location by any officer authorized to make inspections, or to enforce, any Federal, State, or local law regarding controlled substances.

§ 1305.13 Procedure for filling DEA Forms 222.

(a) A purchaser must submit Copy 1 and Copy 2 of the DEA Form 222 to the supplier and retain Copy 3 in the purchaser's files.

(b) A supplier may fill the order, if possible and if the supplier desires to do so, and must record on Copies 1 and 2 the number of commercial or bulk containers furnished on each item and the date on which the containers are shipped to the purchaser. If an order cannot be filled in its entirety, it may be filled in part and the balance supplied by additional shipments within 60 days following the date of the DEA Form 222. No DEA Form 222 is valid more than 60 days after its execution by the purchaser, except as specified in paragraph (f) of this section.

(c) The controlled substances must be shipped only to the purchaser and the location printed by the Administration on the DEA Form 222, except as specified in paragraph (f) of this section.

(d) The supplier must retain Copy 1 of the DEA Form 222 for his or her files and forward Copy 2 to the Special Agent in Charge of the Drug Enforcement Administration in the area in which the supplier is located. Copy 2 must be forwarded at the close of the month during which the order is filled. If an order is filled by partial shipments, Copy 2 must be forwarded at the close of the month during which the final shipment is made or the 60-day validity period expires.

(e) The purchaser must record on Copy 3 of the DEA Form 222 the number of commercial or bulk containers furnished on each item and the dates on which the containers are received by the purchaser.

(f) DEA Forms 222 submitted by registered procurement officers of the Defense Supply Center of the Defense Logistics Agency for delivery to armed services establishments within the United States may be shipped to locations other than the location printed on the DEA Form 222, and in partial shipments at different times not to exceed six months from the date of the

order, as designated by the procurement officer when submitting the order.

§ 1305.14 Procedure for endorsing DEA Forms 222.

(a) A DEA Form 222, made out to any supplier who cannot fill all or a part of the order within the time limitation set forth in § 1305.13, may be endorsed to another supplier for filling. The endorsement must be made only by the supplier to whom the DEA Form 222 was first made, must state (in the spaces provided on the reverse sides of Copies 1 and 2 of the DEA Form 222) the name and address of the second supplier, and must be signed by a person authorized to obtain and execute DEA Forms 222 on behalf of the first supplier. The first supplier may not fill any part of an order on an endorsed form. The second supplier may fill the order, if possible and if the supplier desires to do so, in accordance with § 1305.13 (b), (c), and (d), including shipping all substances directly to the purchaser.

(b) Distributions made on endorsed DEA Forms 222 must be reported by the second supplier in the same manner as all other distributions except that where the name of the supplier is requested on the reporting form, the second supplier must record the name, address, and registration number of the first supplier.

§ 1305.15 Unaccepted and defective DEA Forms 222.

(a) A DEA Form 222 must not be filled if it either of the following apply:

(1) The order is not complete, legible, or properly prepared, executed, or endorsed.

(2) The order shows any alteration, erasure, or change of any description.

(b) If a DEA Form 222 cannot be filled for any reason under this section, the supplier must return Copies 1 and 2 to the purchaser with a statement as to the reason (*e.g.*, illegible or altered).

(c) A supplier may for any reason refuse to accept any order and if a supplier refuses to accept the order, a statement that the order is not accepted is sufficient for purposes of this paragraph.

(d) When a purchaser receives an unaccepted order, Copies 1 and 2 of the DEA Form 222 and the statement must be attached to Copy 3 and retained in the files of the purchaser in accordance with § 1305.17. A defective DEA Form 222 may not be corrected; it must be replaced by a new DEA Form 222 for the order to be filled.

§ 1305.16 Lost and stolen DEA Forms 222.

(a) If a purchaser ascertains that an unfilled DEA Form 222 has been lost, he or she must execute another in triplicate and attach a statement containing the serial number and date of the lost form, and stating that the goods covered by the first DEA Form 222 were not received through loss of that DEA Form 222. Copy 3 of the second form and a copy of the statement must be retained with Copy 3 of the DEA Form 222 first executed. A copy of the statement must be attached to Copies 1 and 2 of the second DEA Form 222 sent to the supplier. If the first DEA Form 222 is subsequently received by the supplier to whom it was directed, the supplier must mark upon the face ''Not accepted'' and return Copies 1 and 2 to the purchaser, who must attach it to Copy 3 and the statement.

(b) Whenever any used or unused DEA Forms 222 are stolen or lost (otherwise than in the course of transmission) by any purchaser or supplier, the purchaser or supplier must immediately upon discovery of the theft or loss, report the theft or loss to the Special Agent in Charge of the Drug Enforcement Administration in the Divisional Office responsible for the area in which the registrant is located, stating the serial number of each form stolen or lost.

(c) If the theft or loss includes any original DEA Forms 222 received from purchasers and the supplier is unable to state the serial numbers of such DEA Forms 222, the supplier must report the date or approximate date of receipt and the names and addresses of the purchasers.

(d) If an entire book of DEA Forms 222 is lost or stolen, and the purchaser is unable to state the serial numbers of the DEA Forms 222 in the book, the purchaser must report, in lieu of the numbers of the forms contained in such book, the date or approximate date of issuance.

(e) If any unused DEA Form 222 reported stolen or lost is subsequently recovered or found, the Special Agent in Charge of the Drug Enforcement Administration in the Divisional Office responsible for the area in which the registrant is located must immediately be notified.

§ 1305.17 Preservation of DEA Forms 222.

(a) The purchaser must retain Copy 3 of each executed DEA Form 222 and all copies of unaccepted or defective forms with each statement attached.

(b) The supplier must retain Copy 1 of each DEA Form 222 that it has filled.

(c) DEA Forms 222 must be maintained separately from all other records of the registrant. DEA Forms 222 are required to be kept available for inspection for a period of two years. If a purchaser has several registered locations, the purchaser must retain Copy 3 of the executed DEA Form 222 and any attached statements or other related documents (not including unexecuted DEA Forms 222, which may be kept elsewhere under § 1305.12(d)), at the registered location printed on the DEA Form 222.

(d) The supplier of carfentanil, etorphine hydrochloride, and diprenorphine must maintain DEA Forms 222 for these substances separately from all other DEA Forms 222 and records required to be maintained by the registrant.

§ 1305.18 Return of unused DEA Forms 222.

If the registration of any purchaser terminates (because the purchaser ceases legal existence, discontinues business or professional practice, or changes the name or address as shown on the purchaser's registration) or is suspended or revoked under § 1301.36 of this chapter for all controlled substances listed in Schedules I and II for which the purchaser is registered, the purchaser must return all unused DEA Forms 222 for such substances to the nearest office of the Administration.

§ 1305.19 Cancellation and voiding of DEA Forms 222.

(a) A purchaser may cancel part or all of an order on a DEA Form 222 by notifying the supplier in writing of such cancellation. The supplier must indicate the cancellation on Copies 1 and 2 of the DEA Form 222 by drawing a line through the canceled items and printing ''canceled'' in the space provided for number of items shipped.

(b) A supplier may void part or all of an order on a DEA Form 222 by notifying the purchaser in writing of such voiding. The supplier must indicate the voiding in the manner prescribed for cancellation in paragraph (a) of this section.

Subpart C—Electronic Orders

§ 1305.21 Requirements for electronic orders.

(a) To be valid, an electronic order for a Schedule I or II controlled substance must be signed by the purchaser with a digital signature issued to the purchaser, or the purchaser's agent, by DEA as provided in part 1311 of this chapter.

(b) The following data fields must be included on an electronic order for Schedule I and II controlled substances:

(1) A unique number the purchaser assigns to track the order. The number must be in the following 9-character format: X, the last two digits of the year, and six characters as selected by the purchaser.

(2) The name of the supplier.

(3) The complete address of the supplier.

(4) The supplier's DEA registration number (may be completed by either the purchaser or the supplier).

(5) The date the order is signed.

(6) The name (including strength where appropriate) of the controlled substance product.

(7) The National Drug Code (NDC) number (may be completed by either the purchaser or the supplier).

(8) The quantity in a single package or container.

(9) The number of packages or containers of each item ordered.

(c) An electronic order may include controlled substances that are not in Schedules I and II and non-controlled substances.

§ 1305.22 Procedure for filling electronic orders.

(a) A purchaser must submit the order to a specific supplier. The supplier may initially process the order (*e.g.*, entry of the order into the computer system, billing functions, inventory identification, etc.) centrally at any location, regardless of its registration with DEA. Following centralized processing, the order is distributed to one or more registered locations maintained by the supplier for filling. The registrant must maintain control of the processing of the order at all times.

(b) A supplier may fill the order for a Schedule I or II controlled substance, if possible and if the supplier desires to do so and is authorized to do so under § 1305.04.

(c) A supplier must do the following before filling the order:

(1) Verify the integrity of the signature and the order by having software that complies with part 1311 of this chapter validate the order.

(2) Verify that the digital certificate has not expired.

(3) Check the validity of the certificate holder's certificate by checking the Certificate Revocation List. The supplier may cache the Certificate Revocation List until it expires.

(4) Verify the certificate holder's eligibility to order the controlled substances by checking the certificate extension data.

(d) The supplier must retain an electronic record of every order, and, linked to each order, a record of the number of commercial or bulk containers furnished on each item and the date on which the supplier shipped the containers to the purchaser. The linked record must also include any data on the original order that the supplier completes. Software used to handle digitally signed orders must comply with part 1311 of this chapter.

(e) If an order cannot be filled in its entirety, a supplier may fill it in part and supply the balance by additional shipments within 60 days following the date of the order. No order is valid more than 60 days after its execution by the purchaser, except as specified in paragraph (h) of this section.

(f) A supplier must ship the controlled substances to the registered location of the purchaser, except as specified in paragraph (h) of this section.

(g) When a purchaser receives a shipment, the purchaser must create a record of the quantity of each item received and the date received. The record must be electronically linked to the original order and archived.

(h) Registered procurement officers of the Defense Supply Center of the Defense Logistics Agency may order controlled substances for delivery to armed services establishments within the United States. These orders may be shipped to locations other than the registered location, and in partial shipments at different times not to exceed six months from the date of the order, as designated by the procurement officer when submitting the order.

§ 1305.23 Endorsing electronic orders.

(a) If a supplier cannot fill all or a part of an electronic order within 60 days of the date of the order, the supplier may endorse the order to a supplier owned by another registrant for filling. Only the supplier to whom the order was first made may endorse the order to another supplier. To endorse the order the first supplier must do the following:

(1) Make an electronic copy of the original order.

(2) Create a linked record to the copy with the name, address, and DEA registration number of the second supplier.

(3) Digitally sign the linked record and copy using a DEA-issued digital certificate that meets the requirements in part 1311 of this chapter.

(b) The first supplier may endorse a partial order or an order in its entirety. The first supplier must transmit both the original order and the signed copy and linked record of the order to the second supplier indicating, where necessary, the partial filling of the original order. The second supplier must fill the order, if possible and if he/she desires to do so, in accordance with the requirements of this part concerning electronic orders.

(c) Distributions made on endorsed orders must be reported by the second supplier in the same manner as all other distributions except that where the name of the supplier is requested in the report, the second supplier must record the name, address, and registration number of the first supplier.

§ 1305.24 Central processing of orders.

(a) A supplier that has one or more registered locations and maintains a central processing computer system in which orders are stored may have one or more of the supplier's registered locations fill an electronic order if the supplier does the following:

(1) Assigns each item on the order to a specific registered location for filling.

(2) Has each location filling part of the order create a record linked to the central file noting both which items the location filled and the location identity.

(3) Ensures that no item is filled by more than one location.

(4) Maintains the original order with all linked records on the central computer system.

(b) A company that has central processing of orders must assign responsibility for filling parts of orders only to registered locations that the company owns and operates.

§ 1305.25 Unaccepted and defective electronic orders.

(a) No electronic order may be filled if:

(1) The required data fields have not been completed.

(2) The order is not signed using a digital certificate issued by DEA.

(3) The digital certificate being used was expired or had been revoked prior to signature.

(4) The purchaser's public key will not decrypt the digital signature.

(5) The validation of the order shows that the order is invalid for any reason.

(b) If an order cannot be filled for any reason under this section, the supplier must notify the purchaser and provide a statement as to the reason (*e.g.*, improperly prepared or altered). A supplier may, for any reason, refuse to accept any order, and if a supplier refuses to accept the order, a statement that the order is not accepted is sufficient for purposes of this paragraph.

(c) When a purchaser receives a rejected electronic order from the supplier, the purchaser must electronically link the statement of reasons for rejection to the original. The original and the statement must be retained in accordance with § 1305.26 of this part.

(d) Neither a purchaser nor a supplier may correct a defective order; the purchaser must issue a new order for the order to be filled.

§ 1305.26 Lost electronic orders.

(a) If a purchaser determines that an unfilled electronic order has been lost before or after receipt, the purchaser must provide, to the supplier, a signed statement containing the unique tracking number and date of the lost order and stating that the goods covered by the first order were not received through loss of that order.

(b) If the purchaser executes an order to replace the lost order, the purchaser must electronically link an electronic record of the second order and a copy of the statement with the record of the first order and retain them.

(c) If the supplier to whom the order was directed subsequently receives the first order, the supplier must make an electronic record, indicate that it is ''Not Accepted,'' and return it to the purchaser. The purchaser must link the returned order to the record of that order and the statement.

§ 1305.27 Preservation of electronic orders.

(a) A purchaser must, for each order filled, retain the original signed order and all linked records for that order for two years. The purchaser must also retain all copies of each unaccepted or defective order and each linked statement.

(b) A supplier must retain each original order filled and the linked records for two years.

(c) If electronic order records are maintained on a central server, the records must be readily retrievable at the registered location.

§ 1305.28 Canceling and voiding electronic orders.

A supplier may void all or part of an electronic order by notifying the purchaser of the voiding. If the entire order is voided, the supplier must make an electronic copy of the order, indicate on the copy ''Void,'' and return it to the purchaser. The purchaser must retain an electronic copy of the voided order. To partially void an order, the supplier must indicate on the annotated copy that nothing was shipped for each item voided.

§ 1305.29 Reporting to DEA.

A supplier must, for each electronic order filled, forward either a copy of the electronic order or an electronic report of the order in such format as DEA may specify to DEA every other business day. For suppliers who choose to submit a report rather than copies, the report must include the following data fields for each order filled:

(a) The supplier's name.

(b) The supplier's complete address.

(c) The supplier's DEA registration number.

(d) The purchaser's name.

(e) The purchaser's complete address.

(f) The purchaser's DEA registration number.

(g) The schedules the purchaser is authorized to receive.

(h) The purchaser's business activity.

(i) The unique tracking number the purchaser assigned to the order.

(j) The date the order was signed.

(k) The name of the controlled substance product.

(l) The National Drug Code (NDC) number of the controlled substance.

(m) The quantity in a single package or container.

(n) The number of packages or containers of each item ordered.

(o) The number of packages or containers shipped.

(p) The date shipped.

2. Part 1311 is added to read as follows:

PART 1311—DIGITAL CERTIFICATES

Subpart A—General

1311.01 Scope.
1311.02 Definitions.
1311.05 Standards for technologies for electronic transmission of orders.
1311.08 Incorporation by reference.

Subpart B—Obtaining and Using Digital Certificates

1311.10 Eligibility to obtain a digital certificate.
1311.15 Limitations on digital certificates.
1311.16 Coordinators for controlled substances order system digital certificate holders.
1311.20 Requirements for obtaining a digital certificate for signing orders.
1311.30 Requirements for storing and using a private key for digitally signing orders.
1311.40 Number of certificates needed.
1311.45 Renewal of certificates.
1311.50 Requirements for registrants that allow powers of attorney to obtain digital certificates under their DEA registration.
1311.55 Requirements for recipients of digitally signed orders.
1311.60 Requirements for systems used to process digitally signed orders.
1311.65 Recordkeeping.

Authority: 21 U.S.C. 821, 828, 829, 871(b), 958(e), 965, unless otherwise noted.

Subpart A—General

§ 1311.01 Scope.

This part sets forth the rules governing the use of digital signatures and the protection of private keys by registrants.

§ 1311.02 Definitions.

For the purposes of this chapter:

Biometric authentication means authentication based on measurement of the individual's physical features or repeatable actions where those features or actions are both unique to the individual and measurable.

Cache means to download and store information on a local server or hard drive.

Certification Authority (CA) means an organization that is responsible for verifying the identity of applicants, authorizing and issuing a digital certificate, maintaining a directory of public keys, and maintaining a Certificate Revocation List.

Certificate Policy means a named set of rules that sets forth the applicability of the specific digital certificate to a particular community or class of application with common security requirements.

Certificate Revocation List (CRL) means a list of revoked, but unexpired certificates issued by a Certification Authority.

Digital certificate means a data record that, at a minimum, (1) identifies the certification authority issuing it; (2) names or otherwise identifies the certificate holder; (3) contains a public key that corresponds to a private key under the sole control of the certificate holder; (4) identifies the operational period; and (5) contains a serial number and is digitally signed by the Certification Authority issuing it.

Digital signature means a record created when a file is algorithmically transformed into a fixed length digest that is then encrypted using an asymmetric cryptographic private key associated with a digital certificate. The combination of the encryption and algorithm transformation ensure that the signer's identity and the integrity of the file can be confirmed.

Electronic signature means a method of signing an electronic message that identifies a particular person as the source of the message and indicates the person's approval of the information contained in the message.

FIPS means Federal Information Processing Standards. These Federal standards prescribe specific performance requirements, practices, formats, communications protocols, etc., for hardware, software, data, etc.

FIPS 140–2 means a Federal standard for security requirements for cryptographic modules.

FIPS 180–1 means a Federal secure hash standard.

FIPS 186–2 means a Federal standard for applications used to generate and rely upon digital signatures.

Key pair means two mathematically related keys having the properties that (1) one key can be used to encrypt a message that can only be decrypted

using the other key and (2) even knowing one key, it is computationally infeasible to discover the other key.

NIST means the National Institute of Standards and Technology.

Private key means the key of a key pair that is used to create a digital signature.

Public key means the key of a key pair that is used to verify a digital signature. The public key is made available to anyone who will receive digitally signed messages from the holder of the key pair.

Public Key Infrastructure means a structure under which a Certification Authority verifies the identity of applicants, issues, renews, and revokes digital certificates, maintains a registry of public keys, maintains an up-to-date certificate revocation list, and validates digital certificates.

PKI means public key infrastructure.

§ 1311.05 Standards for technologies for electronic transmission of orders.

(a) A registrant or a person with power of attorney to sign orders for Schedule I and II controlled substances may use any technology to sign and electronically transmit orders if the technology provides all of the following:

(1) *Authentication:* The system must enable a recipient to positively verify the signer without direct communication with the signer and subsequently demonstrate to a third party, if needed, that the sender's identity was properly verified.

(2) *Non repudiation:* The system must ensure that strong and substantial evidence is available to the recipient of the sender's identity, sufficient to prevent the sender from successfully denying having sent the data. This criterion includes the ability of a third party to verify the origin of the document.

(3) *Message integrity:* The system must ensure that the recipient, or a third party, can determine whether the contents of the document have been altered during transmission or after receipt.

(b) DEA has identified the following means of electronically signing and transmitting order forms as meeting all of the standards set forth in paragraph (a) of this section.

(1) Digital signatures using Public Key Infrastructure (PKI) technology.

(2) [Reserved]

§ 1311.08 Incorporation by reference.

(a) The following standards are incorporated by reference:

(1) FIPS 140–2, Security Requirements for Cryptographic Modules.

(2) FIPS 180–1, Secure Hash Standard.

(3) FIPS 186–2, Digital Signature Standard. These standards are available from the National Institute of Standards and Technology, Computer Security Division, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, MD 20899–8930 and are available at *http://csrc.nist.gov/.*

(b) These incorporations by reference will be submitted to the Director of the Federal Register in accordance with 5 U.S.C. 552(s) and 1 CFR part 51. Copies may be inspected at the Drug Enforcement Administration, 600 Army Navy Drive, Arlington, VA 22202 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20408–0001.

Subpart B—Obtaining and Using Digital Certificates

§ 1311.10 Eligibility to obtain a digital certificate.

(a) The following persons are eligible to obtain a digital certificate from the DEA Certification Authority to sign electronic orders for controlled substances.

(1) The person who signed the most recent DEA registration application or renewal application.

(2) A person granted power of attorney by a DEA registrant to sign orders for one or more schedules of controlled substances.

(b) [Reserved]

§ 1311.15 Limitations on digital certificates.

(a) A digital certificate issued by the DEA Certification Authority will authorize the certificate holder to sign orders for only those schedules of controlled substances covered by the registration under which the certificate is issued.

(b) When a registrant, in a power of attorney letter, limits a certificate applicant to a subset of the registrant's authorized schedules, the digital certificate will allow the certificate holder to sign orders only for that subset of schedules.

§ 1311.16 Coordinators for controlled substances order system digital certificate holders.

(a) Each registrant, regardless of number of digital certificates issued, must designate one or more responsible persons to serve as that registrant's recognized agent regarding issues pertaining to issuance of, revocation of, and changes to digital certificates issued under that registrant's DEA registration. While the coordinator will be the main point of contact between one or more DEA registered locations and the CSOS Certification Authority, all digital certificate activities are the responsibility of the registrant with whom the digital certificate is associated. Even when an individual registrant, *i.e.,* an individual practitioner, is applying for a digital certificate to order controlled substances a CSOS Coordinator must be designated.

(b) Once designated, coordinators must identify themselves, on a one-time basis, to the Certification Authority. If a designated coordinator changes, the Certification Authority must be notified of the change and the new responsibilities assumed by each of the registrant's coordinators, if applicable. Coordinators must complete the application that the DEA Certification Authority provides and submit the following:

(1) Two copies of identification, one of which must be a government-issued photographic identification.

(2) A copy of each current DEA Certificate of Registration (DEA form 223) for each registered location for which the coordinator will be responsible, if available, or if the applicant (or their employer) has not been issued a DEA registration, a copy of each application for registration of the applicant or the applicant's employer.

(3) The applicant must have the completed application notarized and forward the completed application and accompanying documentation to the DEA Certification Authority.

(c) Coordinators will communicate with the Certification Authority regarding digital certificate applications, renewals and revocations. For applicants applying for a digital certificate from the DEA Certification Authority, and for applicants applying for a power of attorney digital certificate for a DEA registrant, the registrant's Coordinator must verify the applicant's identity, review the application package, and submit the completed package to the Certification Authority.

§ 1311.20 Requirements for obtaining a certificate for a digital signature for orders.

(a) To obtain a certificate to use for signing electronic orders for controlled substances, a registrant or person with power of attorney for a registrant must complete the application that the DEA Certification Authority provides and submit the following:

(1) Two copies of identification, one of which must be a government-issued photographic identification.

(2) A current listing of DEA registrations for which the individual has authority to sign controlled substances orders.

(3) A copy of the power of attorney from the registrant, if applicable. If the registrant does not authorize the applicant to order all schedules allowed under the registrant's registration, the power of attorney form or letter must indicate which schedules of controlled substances the applicant is authorized to order.

(4) A signed Subscriber Agreement stating the applicant has read and understands the agreement and agrees to the statement of subscriber obligations that DEA provides.

(b) The applicant must provide the completed application to the registrant's coordinator for controlled substances order system digital certificate holders who will review the application and submit the completed application and accompanying documentation to the DEA Certification Authority.

(c) When the Certification Authority approves the application, it will send the applicant a one-time use access code and password, via separate channels, and information on how to use them. Using this information, the applicant must then electronically submit a request for certification of the public digital signature key. After the request is approved, the Certification Authority will provide the applicant with the signed public key certificate and the Certification Authority's public key certificate.

(d) Once the applicant has generated the key pair, the Certification Authority must prove that the user has possession of the key. For public keys, the corresponding private key must be used to sign the certificate request. Verification of the signature using the public key in the request will serve as proof of possession of the private key.

§ 1311.30 Requirements for storing and using a private key for digitally signing orders.

(a) Only the certificate holder may access or use his or her digital certificate and private key.

(b) The certificate holder must provide FIPS-approved secure storage for the private key.

(c) A certificate holder must ensure that no one else uses the private key. While the private key is activated, the certificate holder must prevent unauthorized use of that private key.

(d) A certificate holder must not make back-up copies of the private key.

(e) The certificate holder must report the loss, theft, or compromise of the private key or the password, via a revocation request, to the Certification Authority within 24 hours of discovery of the loss, theft, or compromise. Upon receipt and verification of a signed revocation request, the Certification Authority will revoke the certificate. The certificate holder must apply for a new certificate under the requirements of § 1311.20.

§ 1311.40 Number of digital certificates needed.

(a) A purchaser of Schedule I and II controlled substances must obtain a separate certificate for each registered location for which the purchaser will order these controlled substances.

(b) [Reserved]

§ 1311.45 Renewal of digital certificates.

(a) A certificate holder must generate a new key pair and obtain a new digital certificate when the registrant's DEA registration expires or whenever the information on which the certificate is based changes. This information includes the registered name and address and the schedules the certificate holder is authorized to handle. A certificate will expire on the date on which the DEA registration on which the certificate is based expires.

(b) The Certification Authority will notify each certificate holder 45 days in advance of the expiration of the certificate holder's digital certificate.

(c) If a certificate holder applies for a renewal before the certificate expires, the certificate holder may renew electronically twice. For every third renewal, the certificate holder must submit a new application and documentation, as provided in § 1311.20.

(d) If a certificate expires before the holder applies for a renewal, the certificate holder must submit a new application and documentation, as provided in § 1311.20.

§ 1311.50 Requirements for registrants that allow powers of attorney individual to obtain digital certificates under their DEA registration.

(a) A registrant that grants power of attorney must report to the DEA Certification Authority within 6 hours of either of the following:

(1) The person with power of attorney has left the employ of the institution.

(2) The person with power of attorney has had his or her privileges revoked.

(b) A registrant must maintain a record that lists each person granted power of attorney to sign controlled substance orders.

§ 1311.55 Requirements for recipients of digitally signed orders.

(a) The recipient of a digitally signed order must do the following before filling the order:

(1) Verify the integrity of the signature and the order by having the software validate the order.

(2) Verify that the certificate holder's digital certificate has not expired by checking the expiration date against the date the order was signed.

(3) Check the validity of the certificate holder's certificate by checking the Certificate Revocation List.

(4) Check the extension data to determine whether the sender has the authority to order the controlled substance.

(b) A recipient may cache Certificate Revocation Lists for use until they expire.

§ 1311.60 Requirements for systems used to process digitally signed orders.

(a) A certificate holder and recipient of an electronic order may use any system to write, track, or maintain orders provided that the system has been enabled to process digitally signed documents and that it meets the requirements of paragraph (b) or (c) of this section.

(b) A system used to digitally sign orders must meet the following requirements:

(1) The cryptographic module must be FIPS 140–2 validated.

(2) The digital signature system and hash function must be compliant with FIPS 186–2 and FIPS 180–1.

(3) The private key must be stored encrypted on a FIPS 140–2 validated cryptographic module using a FIPS-approved encryption algorithm.

(4) The system must use either a user ID and password combination or biometric authentication to access the private key. Activation data must not be displayed as they are entered.

(5) The system must set a 10-minute inactivity time period after which the certificate holder must reauthenticate the password to access the private key.

(6) For software implementations, when the signing module is deactivated, the system must clear the plain text private key from the system memory to prevent the unauthorized access to, or use, of the private key.

(7) The system must be able to digitally sign and transmit an order.

(8) The system must have a time system that is within five minutes of the official National Institute of Standards and Technology time source.

(9) For orders, the system must archive the digitally signed orders and any other records required in Part 1305

of this chapter, including any linked data.

(10) For orders, the system must create an order that includes all data fields listed under § 1305.21(b) of this chapter.

(c) A system used to receive, verify, and create linked records for orders signed with a digital certificate must meet the following requirements:

(1) The cryptographic module must be FIPS 140–2 validated.

(2) The digital signature system and hash function must be compliant with FIPS 186–2 and FIPS 180–1.

(3) The system must determine that an order has not been altered during transmission. The system must invalidate any order that has been altered.

(4) The system must decrypt the digital signature using the sender's public key. The system must invalidate any order that cannot be decrypted.

(5) The system must check the certificate revocation list automatically and invalidate any order with a certificate listed on the certificate revocation list.

(6) The system must check the validity of the certificate and the Certification Authority certificate and invalidate any order that fails these validity checks.

(7) The system must have a time system that is within five minutes of the official National Institute of Standards and Technology time source.

(8) The system must check the substances ordered against the schedules that the signer is allowed to order and invalidate any order that includes substances the signer is not allowed to order.

(9) The system must ensure that an invalid finding cannot be bypassed or ignored and the order filled.

(10) The system must archive the order and include the digital certificate attached to the order in the record of each order.

(11) If a registrant sends daily reports on orders to DEA, the system must create a report that includes, for each order, all the data fields listed under § 1305.28(a) of this chapter.

(d) For systems used to process orders, the system developer or vendor must have an initial independent third-party audit of the system and an additional independent third-party audit whenever the signing or verifying functionality is changed to determine whether it correctly performs the functions listed under paragraphs (b) and (c) of this section. The system developer must retain the most recent audit results and retain the results of any other audits of the software completed within the previous two years.

§ 1311.65 Recordkeeping.

(a) A supplier or purchaser must maintain records of electronic orders and any linked records for two years. Records may be maintained electronically. Records regarding controlled substances that are maintained electronically must be readily retrievable from all other records by Schedule and controlled substance name.

(b) Electronic records must be easily readable or easily rendered in a readable format. They must be made available to the Administration upon request.

(c) Certificate holders must maintain a copy of the subscriber agreement that the Certification Authority provides for the life of the certificate.

Dated: June 19, 2003.

William B. Simpkins,

Acting Administrator.

[FR Doc. 03–16082 Filed 6–26–03; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA–217N]

RIN 1117–AA60

Electronic Orders for Controlled Substances: Notice of Meeting

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of meeting.

SUMMARY: The Drug Enforcement Administration (DEA) will hold a public meeting to provide technical details regarding the use of digital signatures and Public Key Infrastructure (PKI) technology within DEA's proposed system for electronic orders for Schedule I and II controlled substances.

DATES: Thursday, July 24, 2003.

ADDRESSES: Marriott Residence Inn, 550 Army-Navy Drive, Arlington, Virginia 22202. The meeting will be held from 9 a.m. until 4:30 p.m.

Persons wishing to attend this meeting, space permitting, must provide attendee information to the Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, via facsimile at (202) 307–8570 as specified below. Persons wishing to attend the meeting must provide this information to the Liaison and Policy Section no later than July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Background

In a separate Notice of Proposed Rulemaking published in today's **Federal Register**, the Drug Enforcement Administration (DEA) is proposing regulations regarding the electronic transmission of Schedule I and II controlled substances orders from purchasers (DEA-registered distributors, pharmacies and practitioners) to suppliers (DEA-registered manufacturers and distributors) and the electronic retention of records pertaining to those orders. DEA is proposing that these electronic orders be conducted using Public Key Infrastructure (PKI) technology, including the use of digital certificates provided by the DEA root Certification Authority.

This meeting is being held to provide information to interested persons including systems vendors and developers regarding industry's development of electronic systems which conform to the standards and regulations DEA is proposing. Persons interested in learning about the development of such PKI-based systems using DEA's standards may attend this meeting, so long as space permits.

Background and Supporting Documents

Supporting documents regarding DEA's system to permit the electronic transmission of Schedule I and II controlled substances orders and the electronic retention of records pertaining to those orders, including the Certificate Policy, Certificate Profile, enrollment documents, PKI test suite and other pertinent materials may be found within the Electronic Commerce Initiatives/CSOS section on the Diversion Control Program Web site: *http://www.deadiversion.usdoj.gov/ecomm/index.html.*

Meeting Registration

Persons wishing to attend this meeting must provide the following information to the Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, via facsimile at the number listed above:

Name: _____
Title: _____
Company/Organization: _____
Address: _____
Telephone: _____
E-mail address: _____

Dated: June 20, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 03–16083 Filed 6–26–03; 8:45 am]

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Cessna Model 680 Sovereign airplane; comments due by 6-30-03; published 5-15-03 [FR 03-12043]
Israel Aircraft Industries Ltd. Model 1124 airplanes; comments due by 6-30-03; published 4-29-03 [FR 03-10446]
Raytheon Aircraft Co. Model HS 125 Series 700A and 700B airplanes; comments due by 7-3-03; published 5-19-03 [FR 03-12376]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

S. 342/P.L. 108–36

Keeping Children and Families Safe Act of 2003 (June 25, 2003; 117 Stat. 800)

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