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Presidential Documents

Title 3—

The President

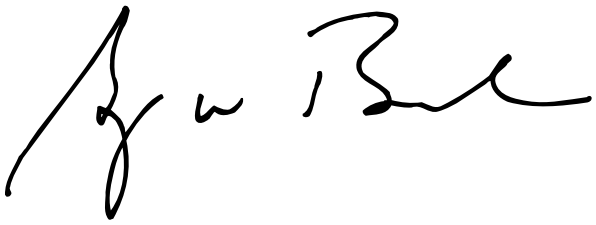
Presidential Determination No. 2003–30 of August 7, 2003

Imposition and Waiver of Sanctions Under Section 604 of the Foreign Relations Authorization Act (Public Law 107–228)

Memorandum for the Secretary of State

Consistent with the authority contained in section 604 of the FY 2003 Foreign Relations Authorization Act (Public Law 107–228) (the ''Act''), and with reference to the determinations set out in the report to the Congress transmitted herewith, consistent with section 603 of that Act, regarding noncompliance by the PLO and the Palestinian Authority with certain commitments, I hereby impose the sanction set out in section 604(a)(2) ''Downgrade in Status of the PLO Office in the United States.'' This sanction is imposed for a period of 180 days from the date hereof or until such time as the next report required by section 603 of the Act is transmitted to the Congress, whichever is later. You are authorized and directed to transmit to the appropriate congressional committees the initial report described in section 603 of the Act.

Furthermore, I hereby determine that it is in the national security interest of the United States to waive that sanction, pursuant to section 604 of the Act. This waiver shall be effective for a period of 180 days from the date hereof or until such time as the next report required by section 603 of the Act is transmitted to the Congress, whichever is later. You are hereby authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 7, 2003.

[FR Doc. 03–21198
Filed 8–15–03; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2003–31 of August 8, 2003

Determination on Turkmenistan

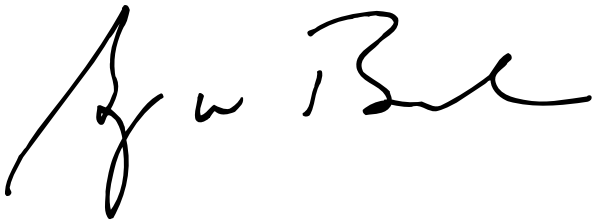
Memorandum for the Secretary of State

Pursuant to Presidential Determination 98–7 of December 5, 1997, Turkmenistan was found to be not in violation of paragraph (1), (2), or (3) of subsection 402(a) of the Trade Act of 1974 (19 U.S.C. 2432(a) and 2439(a)) (the ''Act'') or paragraph (1), (2), or (3) of subsection 409(a) of the Act. That determination with respect to Turkmenistan is no longer in effect.

Consistent with section 402(c)(2)(A) of the Act, I determine that a waiver by Executive Order of the application of subsections (a) and (b) of section 402 of the Act with respect to Turkmenistan will substantially promote the objectives of section 402.

On my behalf, please transmit this determination to the Speaker of the House of Representatives and to the President of the Senate.

You are authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 8, 2003.

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Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560–AH03

Outside Storage of Extra Long Staple Loan Cotton

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This rule amends cotton loan eligibility, packaging, and storage approval requirements to permit extra long staple (ELS) cotton to be stored outside while pledged as collateral for a Commodity Credit Corporation (CCC) marketing assistance loan. The intent of this rule is to permit producers to reduce storage costs for ELS cotton without increasing risk of quality or value loss to producers, merchants, CCC, or ultimate users of the cotton. This interim rule is effective upon its publication, but provides an opportunity for the public to comment on the administration of the new provisions.

DATES: This rule is effective August 18, 2003. Comments on this rule should be submitted on or before September 17, 2003 to be assured of consideration.

ADDRESSES: Address all comments concerning this interim final rule to John Johnson, Deputy Administrator for Farm Programs, USDA/Farm Service Agency, 1400 Independence Avenue, SW, STOP 0510, Washington, DC 20250–0510. Comments may be submitted by electronic mail to *johnjohnson@wdc.usda.gov,* or through the Internet at *www.regulations.gov.* Comments received in connection with this rule may be viewed by contacting Mr. Johnson and arranging a time during normal business hours. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: John Johnson at (202) 720–3175, or via electronic mail at *johnjohnson@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

Current Rule

Current CCC regulations require a warehouse operator to promptly place cotton stored outside within the warehouse when notified that a loan has been made on such cotton. CCC is amending regulations to allow outside storage of ELS by producers who meet the requirements of this interim rule. All other requirements in 7 CFR part 1427 for cotton loan eligibility will continue to apply.

Reason for Change

CCC is making this change to reduce the costs to producers of storing ELS cotton in areas of the country where outside storage is a cost effective and accepted industry practice. CCC has determined that outside storage may be effective at lowering the costs of ELS cotton storage with minimal increased risk. This rule is effective beginning with 2003-crop ELS cotton and will be effective for subsequent crops. In order to implement this change, the CCC cotton marketing assistance loan agreement (attached to this rule as an exhibit) is also amended to include the following conditions:

Outside Storage Requirements

Eligible Cotton: ELS cotton pledged as collateral for a CCC marketing assistance loan may be stored outside by the producer only if all requirements in CFR part 1427 are met except the cotton must be (1) hermetically sealed to maintain internal bale humidity at a certain level, and (2) packaged using bale ties and bags that meet or exceed industry minimum standards for gauge, gauge tolerance, tensile strength, elongation, tear resistance, impact resistance, slip characteristics, size or length, and rust inhibition, as applicable to the materials selected for use. Additionally, the producer must not pledge as loan collateral any bale with a torn bag that is stored outside.

Storage area: The outside storage area must be: (1) Limited to an area identified as suitable for cotton storage; (2) constructed so as to prevent water accumulation under the cotton; and (3) serviced by bale handling equipment that will not damage the sealed bale (no bale hooks); and (4) serviced by bale handling and transport systems that will not degrade the drainage characteristics of the storage area.

Additional limitations: CCC will not pay handling charges to move cotton between inside and outside storage. Also, the producer must deliver all outside-stored forfeited ELS to a site designated by CCC and re-class such cotton within 30 days after the date of delivery. The producer will be responsible for any charges for this delivery, re-classification, receiving charges, weighing, issuance of an electronic warehouse receipt, and other charges as may be levied by the warehouse associated with outside-stored cotton.

Notice and Comment

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (2002 Act) provides that the regulations needed to implement Title I of the 2002 Act, including those involved here, may be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. Because this rule involves technical storage and packaging requirements, it was determined that it was in the public's interest to solicit comments on the rule. The rule is effective upon publication in order to provide its benefit to producers for 2003, and because the rule is consistent with commercial storage practices used, under limited circumstances, for years.

Executive Order 12866

This interim rule has been reviewed by the Office of Management and Budget under Executive Order 12866 and has been designated as ''not significant.''

Federal Assistance Programs

This final rule applies to the following Federal assistance programs, as found in the Catalog of Federal Domestic Assistance: 10.051—Commodity Loans and Loan Deficiency Payments.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject of this rule.

Environmental Assessment

The environmental impacts of this rule have been considered under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and regulations of the Farm Service Agency (FSA) of the Department of Agriculture (USDA) for compliance with NEPA, 7 CFR part 799. An environmental evaluation was completed and the proposed action has been determined not to have the potential to significantly impact the quality of the human environment and no environmental assessment or environmental impact statement is necessary. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12778

This rule has been reviewed under Executive Order 12778. This rule preempts State laws that are inconsistent with it and is not retroactive. Before judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. *See* the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject of this rule. Further, this rule contains no unfunded mandates as defined in sections 202 and 205 of UMRA.

Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that these regulations may be promulgated and the programs administered without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the provisions authorized by these regulations are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Government Paperwork Elimination Act

CCC is committed to compliance with the Government Paperwork Elimination Act, which requires Federal Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. However, the contract and other information collections required by this rule are not yet fully implemented for the public to conduct business with FSA electronically. CCC will make the Outside Storage Addendum available on the agency's Internet web site. The form may be completed and saved on a computer, but must be printed, signed and submitted to FSA in paper form.

List of Subjects in 7 CFR Part 1427

Agricultural commodities, Cottonseeds, Price support programs, Warehouses.

■ Accordingly, CCC amends 7 CFR part 1427 as follows:

PART 1427—COTTON

■ 1. The authority citation for part 1427 continues to read as follows:

Authority: 7 U.S.C. 7231–7237; and 15 U.S.C. 714b and 714c.

■ 2. Amend § 1427.5 by revising paragraph (b)(3) and (10) to read as follows:

§ 1427.5 General eligibility requirements.

* * * * *

(b) * * *

(3) Be represented by a warehouse receipt meeting the requirements of § 1427.11, except as provided in §§ 1427.10(e) and 1427.23(a)(4);

* * * * *

(10) Be packaged in materials which meet the specifications adopted by the Joint Cotton Industry Bale Packaging Committee sponsored by the National Cotton Council of America for the applicable year or which are identified and approved by the Joint Industry Bale Packaging Committee as experimental packaging materials for the applicable crop year, except that producers approved for the outside storage of 2003 and subsequent crops of ELS cotton as provided for in § 1427.10(e) must assure that the packaging materials used for bales stored outside must meet the materials, sealing, and humidity specifications contained in the outside-storage addendum to their ELS cotton marketing assistance loan agreement.

* * * * *

■ 3. Amend § 1427.10 by adding paragraph (e) to read as follows:

§ 1427.10 Approved storage.

* * * * *

(e) With respect to 2003 and subsequent crops of ELS cotton, a producer may obtain a loan on cotton that is not stored as otherwise provided in this section if such cotton is stored:

(1) At a commercial entity that is involved in the handling or storage of cotton in a county where the 10-year average level of precipitation is 10 inches or less;

(2) The site is constructed so as to prevent the accumulation of water under such cotton; and

(3) As otherwise provided in the loan agreement. The collateral for such loan shall be as specified in the loan agreement and may include the actual bale of cotton or a document of title representing such cotton.

■ 4. Amend § 1427.18 by adding paragraph (k) to read as follows:

§ 1427.18 Liability fo the producer.

* * * * *

(k)(1) Notwithstanding any other provision of this part, for ELS cotton stored as provided in § 1427.10(e), the producer shall be liable for all costs associated with the storage of the cotton while it is stored outside. CCC shall make no storage payment or any other payment with respect to ELS cotton stored as provided in § 1427.10(e).

(2) The producer of ELS cotton which is stored as provided in § 1427.10(e) shall:

(i) Certify the quantity of such cotton on the loan application;

(ii) Be responsible for any loss in quantity or quality of such cotton;

(iii) If the loan is satisfied by forfeiting the cotton to CCC, be responsible for all costs associated with delivering such cotton to a warehouse designated by CCC, all costs associated with any re-classification and repackaging that may be required by CCC or the warehouse operator to whom the cotton is delivered, all charges by the receiving warehouse for receiving the cotton and issuing an electronic warehouse receipt

for the cotton, and other charges as may be levied by the warehouse specific to outside-stored cotton; and

(iv) Not move such cotton after the loan application is submitted to CCC without prior written approval of the county committee. Failure of the producer to receive such permission shall subject the producer to administrative actions.

■ 5. Amend § 1427.21 by adding paragraph (d) to read as follows:

§ 1427.21 Settlement.

* * * * *

(d) With respect to ELS cotton which is stored as provided in § 1427.10(e), settlement of loans shall be made based upon the determination of the quantity and quality made by CCC at the time of acceptance of the cotton by CCC at the warehouse designated by CCC as provided in § 1427.18(k).

Signed in Washington, DC, on August 7, 2003.

Verle E. Lanier,

Executive Vice President, Commodity Credit Corporation.

Note: The following appendix will not be published in the Code of Federal Regulations.

U.S. Department of Agriculture

Commodity Credit Corporation

Outside Storage (Cotton) Appendix to Note and Security Agreement Terms and Conditions

PART A—TERMS AND CONDITIONS

A producer submitting cotton to the Commodity Credit Corporation as collateral for a marketing assistance loan may store such collateral outside subject to the following terms and conditions:

(1) Collateral Identification. The producer must identify all outside-stored cotton loan collateral by providing CCC, for each individual bale, the gin code number (5-digit number) and gin bale number (gin-assigned 7-digit number) as presented to the Agricultural Marketing Service (AMS) for classification services, and the bale net weight.

(2) Collateral Location. The producer must provide CCC the address, and any additional storage location information sufficient to enable a CCC representative to locate the cotton.

(3) Initial Classification Information. The producer must provide that AMS classification information, based on bale samples collected by an AMS-approved sampler, is available to CCC.

(4) Classification Information for Forfeited ELS Cotton. In addition to submitting bale samples as required by paragraph (3) of this appendix, for all outside-stored ELS loan collateral delivered to CCC in satisfaction of the loan obligation, the producer is responsible to provide, within 30 days after the date of delivery of the cotton into a warehouse designated by CCC, AMS classification information, based on bale samples collected by an AMS-approved sampler.

(5) Settlement. Notwithstanding provisions of paragraph 9(c) of the Note and Security Agreement Terms and Condition (form CCC–601), if the producer elects to forfeit outside-stored loan collateral in satisfaction of the amount due: (i) the value of the collateral for purposes of settlement will be determined using the applicable schedules of premiums and discounts on the basis of the classification information provided after delivery of the cotton to CCC; and, (ii) the collateral shall be delivered to CCC in the original bags with original bale identification as provided by the ginner.

(6) Settlement Charges. If the producer forfeits outside-stored ELS cotton loan collateral to CCC in satisfaction of the amount due, the producer is liable, in addition to charges included in paragraph 4 of the Note and Security Agreement Terms and Condition (form CCC–601), for (i) expenses or charges associated with the storage of the cotton during the period of the loan, and (ii) charges levied by the warehouse associated with receiving, weighing, compression, issuance of an electronic warehouse receipt, other charges as may be levied by the warehouse specific to outside-stored cotton, and for classification services as required under paragraph (4) of this appendix.

PART B—PRODUCER CERTIFICATION

I accept that the terms and conditions of this appendix apply to the cotton pledged as collateral for this loan. I certify that the cotton pledged as collateral for this loan is packaged in a hermetically sealed bag, packaged at a measured internal humidity level established by the gin as appropriate to safeguard cotton quality, using packaging materials that meet or exceed industry minimum standards. I further certify that the storage area is suitable for cotton storage, is constructed to prevent water accumulation under the cotton, is outside a 100-year floodplain, and is serviced by bale handling and transport equipment that will not damage the sealed bag or degrade the drainage characteristics of the storage area.

Signature of Contact Producer Date

Signature of Other Producer Date

Signature of Other Producer Date

[FR Doc. 03–20879 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1481

RIN 0560–AH04

Sugar Beet Disaster Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule implements provisions of the Agricultural Assistance Act of 2003, related to the Sugar Beet Disaster Program. This program will assist sugar beet producers who suffered production losses for either the 2001 or 2002 crop year due to weather related disasters which resulted in the prevention of planting or the reduction of quantity or quality while the beets were in the field.

EFFECTIVE DATE: August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Sharon Biastock, Production, Emergencies, and Compliance Division, Farm Service Agency (FSA), U.S. Department of Agriculture, 1400 Independence Ave. SW., Stop 0517, Washington, DC 20250–0540, telephone (202) 720–6336; e-mail address: *sharon_biastock@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

This final rule implements Sec. 208 of the Agricultural Assistance Act of 2003 (Pub. L. 108–7) related to the Sugar Beet Program. The statute provides that the Secretary of Agriculture (Secretary) may use up to $60 million of the funds of the Commodity Credit Corporation (CCC) to pay producers with sugar beet crops who were adversely affected by weather for in-field losses prior to harvest for either the 2001 or 2002 crop year, but not both, as elected by the producers. Congress set forth a clear separate funding and authorization to accommodate the specific needs of sugar beet growers. Therefore, modifications to the disaster assistance provisions for other crops have been made to meet those needs of sugar beet growers.

CCC is promulgating this rule as 7 CFR part 1481, and replacing the current regulations in that part governing the Limited California Cooperative Insolvency Payment Program (LCCIPP). The LCCIPP was authorized by section 843 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106–387, 114 Stat. 1549) and

was implemented by CCC under the CCC Charter Act (15 U.S.C. 714 *et seq.*). The program made payments to producers who suffered losses on commodities produced during the 2000 crop year because of the insolvency of an agriculture cooperative in California. LCCIPP is now terminated.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and was determined to be significant and reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for to the subject matter of this rule.

Environmental Evaluation

The environmental impacts of this rule have been considered in accordance with the provisions of the national Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. To the extent these authorities may apply, CCC and FSA have concluded that this rule is categorically excluded from further environmental review as evidenced by the completion of an environmental evaluation. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws that are inconsistent with this rule. Before judicial action may be brought on this rule, the administrative remedies must be exhausted.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule. Further, in any case, this rule does not impose any mandates on State, local or tribal governments, or the private sector.

Paperwork Reduction Act

Section 217 of Public Law 108–7 requires that the promulgation of the regulations and administration of this title shall be made without regard to the notice and comment provisions of section 553 of title 5, United States Code; the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rule making and public participation in rulemaking; and 44 U.S.C. chapter 35 (the Paperwork Reduction Act (PRA)).

Government Paperwork Elimination Act

CCC is committed to compliance with the Government Paperwork Elimination Act, which requires Federal Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. However, the forms and other information collection activities required by participation in the Sugar Beet Disaster Program are not yet fully implemented for the public to conduct business with FSA electronically. CCC will make the application for the Sugar Beet Disaster Program available on the agency's Internet Web site. The form may be completed and saved on a computer, but must be printed, signed and submitted to an FSA County Office in paper form.

Federal Assistance Program

This rule affects the following FSA program listed in the Catalog of Federal Domestic Assistance: 10.073—Crop Disaster Program.

List of Subjects in 7 CFR part 1481

Agriculture, Sugar, Disaster Assistance.

■ Accordingly, 7 CFR part 1481 is revised as follows:

PART 1481—SUGAR BEET DISASTER PROGRAM

Sec.

1481.1 Applicability.
1481.2 Administration.
1481.3 Definitions.
1481.4 Producer eligibility.
1481.5 Sign-up period.
1481.6 Proof of loss.
1481.7 Indemnity benefits.
1481.8 Availability of funds.
1481.9 Limitations on payments.
1481.10 Crop insurance linkage.
1481.11 Miscellaneous provisions.

Authority: Pub. L. 106–387, 114 Stat. 1549; Pub. L. 108–7, 117 Stat. 11; 15 U.S.C. 714 *et seq.*

§ 1481.1 Applicability.

(a) This part sets forth the terms and conditions applicable to the Sugar Beet Disaster Program.

(b) Producers who were prevented from planted sugar beets, or who suffered either quantity or quality losses in excess of 35 percent to sugar beets while in the field in 2001 or 2002 due to adverse weather will be considered eligible for benefits for either of those years, but not both.

§ 1481.2 Administration.

Where circumstances preclude compliance with § 1481.4 due to circumstances beyond the applicant's control, the FSA county or State committee may request that relief be granted by the Deputy Administrator under this section. In such cases, except for statutory deadlines and other statutory requirements, the Deputy Administrator may, in order to more equitably accomplish the goals of this part, waive or modify deadlines and other program requirements if the failure to meet such deadlines or other requirements does not adversely affect operation of the program and are not prohibited by statute.

§ 1481.3 Definitions.

The definitions in this section shall apply to this part.

Application means the Sugar Beet Disaster Program Application, as provided by and available in any FSA office.

CCC means the Commodity Credit Corporation.

CDP means the Crop Disaster Program authorized in 7 CFR part 1480.

Deputy Administrator means the Deputy Administrator of Farm Programs, Farm Service Agency, U.S. Department of Agriculture or a designee.

Eligible losses are any sugar beet losses in excess of 35 percent to either quantity or quality, that occur while the beets are still in the field and are due to adverse weather conditions.

FSA means Farm Service Agency.

NAP means the Noninsured Crop Disaster Assistance Program.

RMA means the Risk Management Agency.

§ 1481.4 Producer eligibility.

(a) Producers will be eligible under this part if they have suffered losses of more than 35 percent of sugar beets in 2001 or 2002 as a result of a weather related condition, or as further specified in this part.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12, for the 2001 or 2002 crop year, as applicable, and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other law.

§ 1481.5 Sign-up period.

A request for benefits under this part must be submitted to CCC at the FSA county office which serves the farm on which the affected sugar beets were planted or prevented from being planted. All applications must be filed in the FSA county office between September 15, 2003 and no later than the close of business on October 31, 2003, or another date determined and announced by the Deputy Administrator.

§ 1481.6 Proof of loss.

(a) Where available and determined accurate, RMA loss records will be used for insured sugar beets.

(b) For producers without crop insurance, the producer must provide documentation including the number of acres, yield, production, and sugar percent by unit for 2001 or 2002.

(c) Certifications by third parties or the owner and other such documentation will not be accepted.

(d) Producers shall certify to the accuracy of the information provided. All information provided is subject to verification and spot checks by CCC. Failure to provide information requested by the FSA county committee or by any agency official is cause for denial of any application filed under this part.

§ 1481.7 Indemnity benefits.

(a) Eligible producers with losses in excess of 35 percent in both 2001 and 2002 will have a choice of receiving payments of either 2001 or 2002 crop year, but not both.

(b) Eligible producers with losses in excess of 35 percent in one of either 2001 or 2002 may receive benefits for that year.

(c) Eligible producers will receive payments based on the higher of the following:

(1) For producers with crop insurance, 60 percent of their crop insurance indemnity.

(2) For any producer, with or without crop insurance, 65 percent of the higher of the producer's Actual Production History (APH) or the county average yield, minus actual yield, times 55 percent of the following Multi-Peril Crop Insurance (MPCI) price elections:

(i) For 2001 crop $36 per ton.

(ii) For 2002 crop $33 per ton.

(3) For any producer, with or without crop insurance, 100 percent of the higher of the producer's APH or the county average yield, minus the actual yield times $12.50 per ton.

§ 1481.8 Availability of funds.

(a) In the event that the total amount of eligible claims submitted under this part exceeds $60 million, then each payment shall be reduced by a uniform national percentage or other means of proration.

(b) Such payment reductions shall be applied after the imposition of applicable per-person payment limitation provisions.

§ 1481.9 Limitations on payments.

(a) The total amount of benefits that a person, as determined in accordance with part 1400 of this chapter, shall be entitled to receive under this part may not exceed $80,000.

(b) A person, as defined in part 1400 of this chapter, who has annual gross revenue in excess of $2.5 million shall not be eligible to receive assistance under this part. For the purpose of this determination, annual gross revenue means:

(1) With respect to a person who receives more than 50 percent of such person's gross income from farming and ranching, the total gross revenue received from such operations; and

(2) With respect to a person who receives 50 percent or less of such person's gross income from farming and ranching, the total gross revenue from all sources.

(c) Payments earned under other programs contained in this chapter shall not reduce the amount payable under this part.

(d) No person shall receive disaster benefits under this part in an amount that exceeds 100 percent of the value of the expected production for the relevant period as determined by CCC. Accordingly, as determined by CCC, the sum of the value of the crop not lost, if any, plus disaster payments, plus the net crop insurance indemnity, cannot exceed 100 percent of what the crop's value would have been if there had been no loss.

(e) All payments are subject to offsets as provided in 7 CFR part 1403.

§ 1481.10 Crop insurance linkage.

(a) Except as provided further in this section, any producer who elected not to purchase crop insurance or NAP coverage as applicable on 2001 or 2002 sugar beet crops for which the producer receives crop loss assistance must:

(1) Purchase crop insurance with additional coverage on that crop for the 2003 and 2004 crop years for sugar beets.

(2) Or, when such insurance cannot be obtained because it is not available, purchase NAP coverage by paying the administrative fee by the applicable State filing deadline and complete all required program requirements including yearly acreage reports, for the otherwise non-insurable sugar beet crop for both 2003 and 2004 crop years.

(b) If, at the time the producer applies for the 2001 or 2002 CDP the sales closing date for 2003 insurable crops, or for 2003 non-insurable crops for which the producer sought benefits under the 2001 or 2002 CDP has passed, the producer must instead to meet the requirement of this section, purchase crop insurance policy or obtain NAP sugar beet coverage, as applicable, for the next available 2 crop years.

(c) If any producer fails to purchase crop insurance or NAP, as required in paragraphs (a) or (b) of this section, the producer shall reimburse CCC for the full amount of the assistance, plus interest, provided to the producer under this part.

§ 1481.11 Miscellaneous provisions.

(a) A person shall be ineligible to receive disaster assistance under this part if it is determined by the State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

(b) All persons with a financial interest in the operation receiving

benefits under this part shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(c) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recalculated and any excess refunded with applicable interest.

(d) The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(e) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth in parts 11 and 780 of this title.

(f) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof.

(g) For the purposes of 28 U.S.C. 3201(e), CCC waives the restriction on receipt of funds or benefits under this program but only as to beneficiaries who as a condition of such waiver agree to apply the 2001 or 2002 sugar beet payments to reduce the amount of the judgment lien.

Signed in Washington, DC, on August 11, 2003.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 03–21039 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–DS–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM261; Special Conditions No. 25–243–SC]

Special Conditions: Israel Aircraft Industries Model 1124 Airplanes; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Israel Aircraft Industries Model 1124 airplanes modified by Avionics Certification Services. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of a dual Innovative Solutions and Support Air Data Display Unit system that performs critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of this system from the effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is August 7, 2003. Comments must be received on or before September 17, 2003.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM261, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM261.

FOR FURTHER INFORMATION CONTACT: Steven R. Edgar, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2025; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that notice and opportunity for prior public comment is impracticable because these procedures would significantly delay certification of the airplane and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance; however, the FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On February 1, 2003, Avionics Certification Services, 1675 Turnberry Drive, San Marcos, California, applied for a Supplemental Type Certificate (STC) to modify Israel Aircraft Industries Model 1124 airplanes. These models are currently approved under Type Certificate No. A2SW. The Model 1124 is a transport category airplane powered by two Garrett AiResearch TFE–731–3–1G turbofan engines and has a maximum takeoff weight of 23,500 pounds. This airplane operates with a 2-pilot crew and can hold up to 10 passengers. The modification incorporates the installation of a dual Innovative Solutions and Support Air Data Display Unit (ADDU) system. The ADDU system is a replacement for the pneumatic altimeters. The avionics/electronics and electrical systems installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Avionics Certification Services must show that the Israel Aircraft Industries Model 1124, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A2SW, or the applicable regulations in effect on the date of

application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for the Model 1124 airplanes includes 14 CFR 21.29; CAR 4b effective December 31, 1953, including amendments 4b–1 through 4b–11, and 4b–12; paragraphs 4b.132(e), 4b.151(a), 4b.155, 4b.156, 4b.157, 4b.158, 4b.160, 4b.162, 4b.191, 4b.210(b)(5), 4b.603(k); 4b.711; and paragraphs pertaining to engine fire shielding. In addition, the certification basis includes Special Regulations (SR) SR 422b, effective July 9, 1959; SR 450A, effective August 31, 1962; § 25.771 as amended by Amendment 25–4; § 25.2 as amended by Amendments 25–15, 25–17, and 25–20; § 33.97, as amended by Amendment 33–3, and § 33.99; Special Conditions specified in FAA letters of December 13, 1963, and June 2, 1964; Special Conditions 25–37–EU–8, dated November 16, 1971; and Special FAR 27 effective January 1, 1974; and the following 14 CFR part 25 sections, as amended by Amendments 25–1 through 25–34, which replaced the corresponding CAR 4b paragraphs: §§ 25.831 through 25.843, 25.901 through 25.1203, 25.1305, 25.1521, and 25.1309 with respect to reverse thrust installation.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, CAR 4b or part 25, as amended) do not contain adequate or appropriate safety standards for the Israel Aircraft Industries Model 1124 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Israel Aircraft Industries Model 1124 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should Avionics Certification Services apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A2SW to incorporate the same or similar novel or unusual design feature, these special conditions would also apply to the other model.

Novel or Unusual Design Features

As noted earlier, the Israel Aircraft Industries Model 1124 airplanes modified by Avionics Certification Services will incorporate a dual Air Data Unit Display system that will perform critical functions. This system may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Israel Aircraft Industries Model 1124 airplanes modified by Avionics Certification Services. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, and the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 OR 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths identified in the table below for the frequency ranges indicated. Both peak and average field strength components from the table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200

Frequency	Field strength (volts per meter)	
	Peak	Average
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Israel Aircraft Industries Model 1124 airplanes modified by Avionics Certification Services. Should Avionics Certification Services apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A2SW to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on Israel Aircraft Industries Model 1124 airplanes modified by Avionics Certification Services. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Israel Aircraft Industries Model 1124 airplanes modified by Avionics Certification Services.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on August 7, 2003.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–21106 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–20–AD; Amendment 39–13270; AD 2003–16–17]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GMBH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Dornier Luftfahrt GMBH (Dornier) Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes that have electrical cabin/cockpit heater option P05 or option P09 installed. This AD requires you to modify the cockpit and cabin auxiliary heating wiring. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to correct problems with the current design of the heater wiring, which could result in failure of the auxiliary cabin heater. Such failure could lead to overheating and smoke in the cockpit.

DATES: This AD becomes effective on October 6, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 6, 2003.

ADDRESSES: You may get the service information referenced in this AD from Dornier Luftfahrt GmbH, Customer Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 300; facsimile: (08153) 304463. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–20–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on certain Dornier Models 228–100, 228–101, 228–200 and 228–201, 228–202, and 228–212 airplanes. The LBA reports an occurrence of stuck contacts of the power relay of the heating circuit to the

auxiliary cabin heater, Dornier option P05 or P09.

What is the potential impact if FAA took no action? Failure of the auxiliary cabin heater could lead to overheating and smoke in the cockpit.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes that have electrical cabin/cockpit heater option P05 or option P09 installed. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 15, 2003 (68 FR 26242). The NPRM proposed to require you to modify the cockpit and cabin auxiliary heating wiring.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

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

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

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

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 14 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish this modification. We have no way of determining the number of airplanes that may need such modification:

Labor cost	Parts cost	Total cost per airplane
3 workhours × $60 per hour = $180	$95	$275

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–16–17 Dornier Luftfahrt GMBH: Amendment 39–13270; Docket No. 2003–CE–20–AD.

(a) *What airplanes are affected by this AD?* This AD affects Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, all serial numbers, that are:

(1) Certificated in any category; and

(2) Equipped with electrical cabin/cockpit heater option P05 or option P09 auxiliary cabin heater(s) (32HA/35HA or 51HA/52HA).

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct problems with the current design of the heater wiring, which could result in failure of the auxiliary cabin heater. Such failure could lead to overheating and smoke in the cockpit.

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

Actions	Compliance	Procedures
(1) Modify any installed cockpit and cabin auxiliary cabin heater (32HA/35HA or 51HA/52HA) heating wiring.	Within the next 50 hours time-in-service (TIS) after October 6, 2003 (the effective date of this AD), unless already accomplished. Removal from the airplane of any unmodified auxiliary cabin heater (32HA/35HA or 51HA/52HA) is terminating action for this AD.	In accordance with Fairchild Dornier Dornier 228 Service Bulletin No. SB–228–249, Revision No. 1, dated October 14, 2002, and following standard practices.

Actions	Compliance	Procedures
(2) Do not install any auxiliary cabin heater (32HA/35HA or 51HA/52HA) (or FAA-approved equivalent part number) unless it has been modified as required in paragraph (d)(1) of effective this AD.	As of October 6, 2003 (the effective date of this AD).	Not applicable.

(e) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, follow the procedures in 14 CFR 39.19. Send these requests to the Manager, Standards Office, Small Airplane Directorate. For information on any already approved alternative methods of compliance, contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

(f) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Fairchild Dornier Dornier 228 Service Bulletin No. SB–228–249, Revision No. 1, dated October 14, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Dornier Luftfahrt GmbH, Customer Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 300; facsimile: (08153) 304463. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note: The subject of this AD is addressed in German AD Number 2002–264, dated September 19, 2002.

(g) *When does this amendment become effective?* This amendment becomes effective on October 6, 2003.

Issued in Kansas City, Missouri, on August 7, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–20709 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–328–AD; Amendment 39–13266; AD 2003–16–13]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, that requires installing new vent tube assemblies for the main fuel tanks; and, on certain airplanes, inspecting to measure the clearance between the vent system tubing and the applicable wing ribs, and corrective action if necessary. This action is necessary to prevent a fire hazard due to fuel spillage. This action is intended to address the identified unsafe condition.

DATES: Effective September 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 22, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes was published in the **Federal Register** on June 18, 2003 (68 FR 36513). That action proposed to require installing new vent tube assemblies for the main fuel tanks; and, on certain airplanes, inspecting to measure the clearance between the vent system tubing and the applicable wing ribs, and corrective action if necessary.

Comments

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

Conclusion

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

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

The FAA estimates that the installation will be required to be accomplished on 45 Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes of U.S. registry. It will take approximately 15 work hours per airplane to accomplish the installation at an average labor rate of $65 per work hour. Required parts will cost approximately $10,273 per airplane. Based on these figures, the cost impact of the installation on U.S. operators is estimated to be $506,160, or $11,248 per airplane.

The FAA estimates that the inspection will be required to be accomplished on 43 Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes of U.S. registry. It will take approximately 1 work hour per airplane to accomplish the inspection at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the inspection on U.S. operators is estimated to be $2,795, or $65 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish

those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–16–13 Bombardier, Inc. (Formerly Canadair): Amendment 39–13266. Docket 2001–NM–328–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes having serial numbers 7003 through 7067 inclusive and 7069 through 7109 inclusive, certificated in any category; excluding those airplanes on which the actions specified in Bombardier Service Bulletin 601R–28–024, dated May 21, 1996, have been accomplished. (This applicability includes airplanes informally identified as ''Series 200.'')

Compliance: Required as indicated, unless accomplished previously.

To prevent a fire hazard in the main fuel tanks due to fuel spillage, accomplish the following:

Installation

(a) Within 180 days after the effective date of this AD, install new vent tube assemblies for the main fuel tanks, per Part A of paragraph 2.B. of the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–024, Revision ''A'', dated November 11, 1998.

Inspection and Corrective Action

(b) For airplanes having serial numbers 7003 through 7035 inclusive, and 7048 through 7057 inclusive: Before further flight after installing the vent tube assemblies as required by paragraph (a) of this AD, perform a general visual inspection to measure the clearance between the vent system tubing and the applicable wing rib, per Part B of paragraph 2.B. of the Accomplishment Instructions of Bombardier Service Bulletin 601R–28–024, Revision ''A,'' dated November 11, 1998.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If the clearance between the vent system tubing and the applicable wing rib is 0.125 inch or more, no further action is required by this paragraph.

(2) If the clearance between the vent system tubing and the applicable wing rib is less than 0.125 inch, prior to further flight, install the bracket assemblies per paragraphs 2.B.(8) through 2.B.(10) of the Accomplishment Instructions of the service bulletin.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(d) The actions shall be done in accordance with Bombardier Service Bulletin 601R–28–024, Revision ''A,'' dated November 11, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–31, dated August 7, 2001.

Effective Date

(e) This amendment becomes effective on September 22, 2003.

Issued in Renton, Washington, on August 7, 2003.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–20711 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–27–AD; Amendment 39–13267; AD 2003–16–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped with Pratt & Whitney JT9D–3 or JT9D–7 Series Engines (except JT9D–70 Series Engines)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 747 series airplanes equipped with Pratt & Whitney JT9D–3 or JT9D–7 series engines (except JT9D–70 series engines), that requires detailed inspections of the upper and lower surface of the forward lower spar of the nacelle strut for cracking or other damage, and for any loose or damaged fasteners. This amendment also requires replacement of loose or damaged fasteners and, if necessary, associated repair of the forward lower spar. This action is necessary to detect and correct cracking or other damage to the upper or lower surface of the forward lower spar and any loose or damaged fasteners, which could result in reduced structural

capability of nacelle struts one through four, and possible separation of a strut and engine from the airplane during flight. This action is intended to address the identified unsafe condition.

DATES: Effective September 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 22, 2003.

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

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6421; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Boeing Model 747 series airplanes equipped with Pratt & Whitney JT9D–3 or JT9D–7 series engines (except JT9D–70 series engines) was published in the **Federal Register** on May 29, 2003 (68 FR 31994). That action proposed to require detailed inspections of the upper and lower surface of the forward lower spar of the nacelle strut for cracking or other damage, and for any loose or damaged fasteners. That action also proposed to require replacement of loose or damaged fasteners and, if necessary, associated repair of the forward lower spar.

Comments

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

The commenter, an operator, states that the six-month initial inspection threshold may require inspections to occur outside of scheduled heavy maintenance checks, thereby requiring special routing of airplanes to enable inspections to occur at maintenance facilities with appropriate equipment and personnel. The commenter further states that the accomplishment of detailed visual inspections outside of heavy maintenance checks is not desireable and should be avoided. However, the commenter acknowledges that the proposed AD appears to provide sufficient justification for the initial inspection threshold.

From this comment, we infer that the commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

There are approximately 366 airplanes of the affected design in the worldwide fleet. The FAA estimates that 115 airplanes of U.S. registry will be affected by this AD, that it will take from 20 to 64 work hours per airplane to accomplish the required inspections, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $1,300 and $4,160 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–16–14 Boeing: Amendment 39–13267. Docket 2002–NM–27–AD.

Applicability: Model 747 series airplanes, equipped with Pratt & Whitney JT9D–3 or JT9D–7 series engines (excluding JT9D–70 series engines), as listed in Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For

airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking or other damage to the structure of the upper or lower surface of the forward lower spar and any loose or damaged fasteners, which could result in reduced structural capability of nacelle struts one through four, and possible separation of the strut and engine from the airplane during flight, accomplish the following:

Inspection of Upper Surface of Forward Lower Spar

(a) At the later of the times shown in paragraphs (a)(1) and (a)(2) of this AD: Perform a detailed inspection of the upper surface of the forward lower spar to detect cracks, fretting damage, and any loose or damaged fasteners, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001.

(1) Within 500 flight cycles, but no sooner than 300 flight cycles, after modification of the strut in accordance with AD 95–10–16, amendment 39–2933; or

(2) Within 6 months after the effective date of this AD.

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

Inspection of Lower Surface of Forward Lower Spar

(b) If the detailed inspection required by paragraph (a) of this AD reveals any crack or fretting damage, or any loose or damaged fastener: Prior to further flight, perform a detailed inspection of the lower surface of the forward lower spar to detect cracks, fretting damage, and any loose or damaged fasteners, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001.

Follow-up Inspection

(c) If the detailed inspection of the upper surface of the forward lower spar required by paragraph (a) of this AD reveals no crack or fretting damage and no loose or damaged fastener: At the later of the times specified in paragraphs (c)(1) and (c)(2) of this AD, repeat the detailed inspection of the upper surface of the forward lower spar and perform a detailed inspection of the lower surface of the forward lower spar, in accordance with Parts 1 and 2, respectively, of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001.

(1) Within 1,500 flight cycles, but no sooner than 1,300 flight cycles, after modification of the strut, in accordance with AD 95–10–16; or

(2) Within 18 months after the effective date of this AD.

Optional Follow-up Inspection

(d) If the detailed inspection of the upper surface of the forward lower spar required by paragraph (a) of this AD reveals no crack or fretting damage, and no loose or damaged fastener: Prior to further flight, the operator may elect to perform a detailed inspection of the lower surface of the forward lower spar to detect cracks, fretting damage, and any loose or damaged fasteners, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001, provided that the airplane has accumulated at least 1,300 flight cycles since modification of the strut per AD 95–10–16.

Corrective Action

(e) If any detailed inspection described in paragraph (a), (b), (c), or (d) of this AD reveals any crack or fretting damage to the upper or lower surface of the forward lower spar or any loose or damaged fastener: Prior to further flight, accomplish the actions specified in paragraph (e)(1) or (e)(2) of this AD, as applicable.

(1) If the crack or fretting damage to the upper or lower surface of the forward lower spar falls within the parameters specified in Figure 4 or 5 (as applicable) of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001, and the airplane has accumulated 1,300 flight cycles or more since modification of the strut per AD 95–10–16: Remove any loose or damaged fasteners, repair any cracks or fretting damage to the upper or lower surface of the forward lower spar, and install new fasteners, in accordance with the Accomplishment Instructions of the service bulletin. No further action is required by this AD.

(2) If the crack or fretting damage to the upper or lower surface of the forward lower spar does not fall within the parameters specified in Figure 4 or 5 (as applicable) of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001, or if the airplane has accumulated fewer than 1,300 flight cycles since modification of the strut per AD 95–10–16: Accomplish additional repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved as required by this paragraph, the approval must specifically reference this AD.

(f) If the detailed inspection specified in paragraph (c) or (d) of this AD reveals no cracks or other damage to the upper or lower surface of the forward lower spar and no loose or damaged fasteners, no further action is required by this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–54A2209, dated November 8, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on September 22, 2003.

Issued in Renton, Washington, on August 6, 2003.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–20712 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–314–AD; Amendment 39–13268; AD 2003–16–15]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes, and Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes, and Airbus Model A310 series airplanes. This AD requires replacement of Honeywell inertial reference units (IRU) with new or modified Honeywell IRUs. For certain airplanes, this proposal also would require replacement of Litton IRUs, mode selector units (MSU), and an inertial sensor display unit (ISDU) with new Honeywell IRUs, MSUs, and a new ISDU. This action is necessary to prevent loss of positioning data and a display of incorrect attitude data, which could compromise the ability of the flightcrew to maintain the safe flight and landing of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 22, 2003.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes, and Airbus Model A310 series airplanes, was published in the **Federal Register** on May 29, 2003 (68 FR 31996). That action proposed to require replacement of Honeywell inertial reference units (IRU) with new or modified Honeywell IRUs. For certain airplanes, that action also proposed to require replacement of Litton IRUs, mode selector units (MSU), and an inertial sensor display unit (ISDU) with new Honeywell IRUs, MSUs, and a new ISDU.

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

Conclusion

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

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

The FAA estimates that 89 Airbus Model A300–600 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the replacement of Honeywell IRUs with new or modified Honeywell IRUs, and that the average labor rate is $65 per work hour. Required parts will cost approximately $1,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $106,355, or $1,195 per airplane.

The FAA estimates that 47 Airbus Model A310 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the replacement of Honeywell IRUs with new or modified Honeywell IRUs, and that the average labor rate is $65 per work hour. Required parts will cost approximately $1,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $56,165, or $1,195 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–16–15 Airbus: Amendment 39–13268. Docket 2001–NM–314–AD.

Applicability: The series airplanes, certificated in any category, listed in the following table:

TABLE—APPLICABILITY

Model—	Equipped with honeywell initial reference units having part number—	Excluding airplanes modified in accordance with—
A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600); and A310.	HG1050BD02 or HG1050BD05	Airbus Modification 12304 in production; or Airbus Service Bulletin A300–34–6135, Revision 01, dated September 10, 2001 (for Model A300–600 series airplanes); or Airbus Service Bulletin A310–34–2158, Revision 01, dated September 10, 2001 (for A310 Model A310 series airplanes); as applicable.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of positioning data and a display of incorrect attitude data to the flightcrew, which could compromise the ability of the flightcrew to maintain the safe flight and landing of the airplane, accomplish the following:

Replacement of Inertial Reference Units (IRU)

(a) Within 35 months after the effective date of this AD: Replace the existing Honeywell IRUs with new or modified Honeywell IRUs, per the Accomplishment Instructions specified in Airbus Service Bulletin A300–34–6135, Revision 01 (for Model A300 B4–600, A300 B4–600R, and A300–F4–600R (collectively called A300–600 series airplanes)); or Service Bulletin A310–34–2158, Revision 01 (for Model A310 series airplanes); both dated September 10, 2001; as applicable.

(b) Accomplishment of the replacement specified in Airbus Service Bulletin A300–34–6135 (for Model A300–600 series airplanes); or Service Bulletin A310–34–2158 (for Model A310 series airplanes); both dated March 9, 2001; as applicable; is acceptable for compliance with the replacement requirement of paragraph (a) of this AD.

Note 2: Airbus Service Bulletin A300–34–6135, Revision 01; and Airbus Service Bulletin A310–34–2158, Revision 01; both dated September 10, 2001; reference Honeywell Service Bulletin HG1050BD–34–0009, dated April 17, 2001; and Honeywell Service Bulletin HG1050BD–34–0010, Revision 001, dated April 16, 2001; as additional sources of service information for accomplishing the replacements required by this AD.

For Model A300–600 Series Airplanes: Concurrent Requirements

(c) For Model A300–600 series airplanes with manufacturer's serial numbers 0284, 0294, 0301, 0307, 0312, 0317, 0321, 0336, 0341, 0348, 0351, 0555, 0559, 0625, 0677, 0743, 0744, and 0749: Before or concurrently with the requirements of paragraph (a) of this AD, replace the Litton IRUs, mode selector units (MSU), and inertial sensor display unit (ISDU) with new Honeywell IRUs, MSUs, and a new ISDU, per Airbus Service Bulletin A300–34–6082, Revision 05, dated February 13, 1998. If this service bulletin is being performed concurrently with the requirements of paragraph (a) of this AD, the new or modified Honeywell IRUs required by paragraph (a) of this AD should be installed in lieu of the Honeywell part numbers listed in Revision 05 of Airbus Service Bulletin A300–34–6082.

For Model A310 Series Airplanes: Concurrent Requirements

(d) For the Model A310 airplane with manufacturer's serial number 0172: Before or concurrently with the requirements of paragraph (a) of this AD, replace the Litton IRUs, MSUs, and ISDU with new Honeywell IRUs, MSUs, and a new ISDU, per Airbus Service Bulletin A310–34–2104, dated May 12, 1995.

Parts Installation

(e) As of the effective date of this AD, no person shall install, on any airplane, any part listed in paragraphs (e)(1), (e)(2), or (e)(3) of this AD; as applicable.

(1) For Model A300–600 series airplanes and Model A310 series airplanes: Honeywell IRUs having part number HG1050BD02 or HG1050BD05.

(2) For Model A300–600 airplanes listed in paragraph (c) of this AD: Litton IRUs, MSUs, or ISDU having a part number identified in paragraph 3.A. of Airbus Service Bulletin A300–34–6082, Revision 05, dated February 13, 1998.

(3) For the Model A310 airplane listed in paragraph (d) of this AD: Litton IRUs having part number 4618000200–2201 or 461800–02–102; MSUs having part number 461630–02; and an ISDU having part number 461640–08–03.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Avionics Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(h) Unless otherwise specified in this AD, the actions shall be done in accordance with Airbus Service Bulletin A300–34–6135, Revision 01, dated September 10, 2001, and Airbus Service Bulletin A300–34–6082, Revision 05, dated February 13, 1998; or Airbus Service Bulletin A310–34–2158, Revision 01, dated September 10, 2001, and Airbus Service Bulletin A310–34–2104, dated May 12, 1995; as applicable. Airbus Service Bulletin A300–34–6082, Revision 05, dated February 13, 1998, contains the following list of effective pages:

Page Number	Revision level shown on page	Date shown on page
1, 2, 5	05	February 13, 1998
3, 4	04	October 10, 1997
7, 8	03	May 14, 1997
6	Original	April 20, 1995

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2001–303(B), dated July 25, 2001.

Effective Date

(i) This amendment becomes effective on September 22, 2003.

Issued in Renton, Washington, on August 6, 2003.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–20713 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–228–AD; Amendment 39–13265; AD 2003–16–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires inspections to detect cracking of the front spar web of the wing, and corrective action if necessary. This amendment adds one airplane to the applicability, changes certain compliance times, adds certain new requirements, and provides an optional modification. This action is necessary to detect and correct fatigue cracking of the front spar web, which could result in fuel leaking onto an engine and a consequent fire. This action is intended to address the identified unsafe condition.

DATES: Effective September 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 22, 2003.

The incorporation by reference of Boeing Alert Service Bulletin 747–57A2311, dated January 27, 2000, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 30, 2001 (65 FR 81331, December 26, 2000).

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

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6421; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–25–12, amendment 39–12047 (65 FR 81331, December 26, 2000), which is applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on March 4, 2003 (68 FR 10185). The action proposed to continue to require inspections to detect cracking of the front spar web of the wing, and corrective action if necessary. That action also proposed to add one airplane to the applicability, change certain compliance times, add certain new requirements, and proposed an optional modification.

Comments

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

Change to Final Rule

After reviewing paragraph (g) of the proposed AD, the FAA finds it necessary to clarify the applicability specified for the post-modification inspections. Paragraph (g) states, ''For airplanes on which the actions specified in paragraph (b) or (f) of this AD have been done before the effective date of this AD: In lieu of the inspections * * *'' We inadvertently included ''before the effective date of this AD;'' however, paragraph (g) is an option for airplanes on which paragraph (b) or (f) has been done either before or after the effective date of the AD. Therefore, we have changed paragraph (g) of this final rule for clarification.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. This change will neither increase the economic burden on any operator nor increase the scope of the AD.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Cost Impact

There are approximately 479 airplanes of the affected design in the worldwide fleet. The FAA estimates that 97 airplanes of U.S. registry will be affected by this AD.

The external inspections that are currently required by AD 2000–25–12 take approximately 48 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,120 per airplane, per inspection cycle.

The new inspections that are required by this new AD will take approximately 74 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the new

inspections is estimated to be $4,810 per airplane, per inspection cycle.

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

Should an operator elect to accomplish the optional modification that is provided by this AD, it will take approximately 40 work hours to accomplish, at an average labor rate of $65 per work hour. The cost of required parts will be between $8,606 and $28,036 per airplane. Based on these figures, the cost impact of the optional modification will be between $11,206 and $30,636 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–12047 (65 FR 8128, December 26, 2000) and by adding the following new airworthiness directive:

2003–16–12 Boeing: Amendment 39–13265. Docket 2001–NM–228–AD. Supersedes AD 2000–25–12, amendment 39–12047.

Applicability: Model 747 series airplanes, as listed in Boeing Service Bulletin 747–57A2311, Revision 2, dated February 21, 2002; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the front spar web of the wing, which could result in fuel leaking onto an engine and a consequent fire, accomplish the following:

Restatement of Certain Requirements of AD 2000–25–12

Repetitive Inspections

(a) Excluding Group 31 airplanes, as specified in Boeing Service Bulletin 747–57A2311, Revision 2, dated February 21, 2002: At the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD, except as provided by paragraph (b) of this AD, perform the Part 1 external web inspection—including detailed, ultrasonic, and high frequency eddy current (HFEC) inspections—to detect cracking of the front spar web of the wing, in accordance with Boeing Alert Service Bulletin 747–57A2311, dated January 27, 2000. Repeat the inspections thereafter at intervals not to exceed 2,000 flight cycles until accomplishment of the inspections required by paragraph (e) of this AD. Accomplishment of an optional inspection of the front spar web per AD 2000–25–12, amendment 39–12047, is considered acceptable for compliance with the applicable inspection requirement in this paragraph.

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

(1) Prior to the accumulation of 13,000 total flight cycles or 30,000 total flight hours, whichever occurs first.

(2) Within 18 months after January 30, 2001 (the effective date of AD 2000–25–12, amendment 39–12047).

Exception for Modified Airplanes

(b) Except as provided by paragraph (g) of this AD, for airplanes on which the front spar web between front spar station inboard (FSSI) 668 and FSSI 692 has been replaced before the effective date of this AD with a shot-peened front spar web, in accordance with AD 99–10–09, amendment 39–11162: Within 13,000 flight cycles or 30,000 flight hours after the replacement, whichever occurs first, inspect the new section of the front spar web that overlaps with the inspection area specified in Boeing Alert Service Bulletin 747–57A2311 (the area between FSSI 668 and FSSI 684), dated January 27, 2000. Repeat the inspections thereafter, in accordance with paragraph (a) of this AD.

Repair

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

New Requirements of This AD

Compliance Times

(d) Where the compliance time inspection threshold is measured from the release of either Boeing Alert Service Bulletin 747–57A2311, Revision 1, including Appendices A and B, dated June 14, 2001; or Boeing Service Bulletin 747–57A2311, Revision 2, dated February 21, 2002: This AD requires compliance within the inspection interval specified in the service bulletin ''after the effective date of this AD.''

Repetitive Inspections

(e) Except as provided by paragraph (g) of this AD: Do detailed, ultrasonic, and HFEC inspections, as applicable, to find cracking of the front spar web of the wing, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2311, Revision 1, including Appendices A and B, dated June 14, 2001; or

Boeing Service Bulletin 747–57A2311, Revision 2, dated February 21, 2002. Do the inspections at the applicable initial inspection threshold times specified in Figure 1, Tables 1 through 8 inclusive, of the service bulletin. Repeat the applicable inspection thereafter at the applicable repeat inspection interval specified in Figure 1, Tables 1 through 8 inclusive, of the service bulletin. Accomplishment of the inspections required by this paragraph terminates the repetitive inspections required by paragraph (a) of this AD.

Optional Modification

(f) Accomplishment of the optional modification of the front spar web of the wing (includes removing the existing fasteners and doing an open hole, rotating probe HFEC inspection of the holes for web cracks; and if no cracks are found, oversizing the holes, and installing tension type fasteners), in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2311, Revision 1, including Appendices A and B, dated June 14, 2001; or Boeing Service Bulletin, Revision 2, dated February 21, 2002; terminates the repetitive inspections required by paragraph (e) of this AD.

Post-Modification Inspections

(g) For airplanes on which the actions specified in paragraph (b) or (f) of this AD have been done: In lieu of the inspections required by paragraph (b) or (e) of this AD, as applicable, do the applicable post-modification inspection specified in Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2311, Revision 1, including Appendices A and B, dated June 14, 2001; or Boeing Service Bulletin 747–57A2311, Revision 2, dated February 21, 2002; at the post-modification inspection threshold times specified in Figure 1, Tables 1 through 8 inclusive, of the service bulletin. Repeat the applicable inspection thereafter at the applicable post-modification repeat inspection interval specified in Figure 1, Tables 1 through 8 inclusive, of the service bulletin.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–25–12, amendment 39–12047, are approved as alternative methods of compliance with paragraph (c) of this AD.

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

Special Flight Permits

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

Incorporation by Reference

(j) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–57A2311, dated January 27, 2000; and Boeing Alert Service Bulletin 747–57A2311, Revision 1, including Appendices A and B, dated June 14, 2001; or Boeing Service Bulletin 747–57A2311, Revision 2, dated February 21, 2002; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin 747–57A2311, Revision 1, including Appendices A and B, dated June 14, 2001; and Boeing Service Bulletin 747–57A2311, Revision 2, dated February 21, 2002; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 747–57A2311, dated January 27, 2000, was approved previously by the Director of the Federal Register as of January 30, 2001 (65 FR 81331, December 26, 2000).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(k) This amendment becomes effective on September 22, 2003.

Issued in Renton, Washington, on August 7, 2003.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–20714 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–08–AD; Amendment 39–13271; AD 2003–16–18]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 800 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) that applies to Rolls-Royce plc (RR) RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines with intermediate pressure (IP) turbine discs, part numbers (P/Ns) FK21117 and FK33083 installed. This AD requires removal from service of these IP turbine discs based on newly established reduced turbine disc life limits. This AD is prompted by reports of two IP turbine blade release incidents as a result of dust caps separating from the blades and subsequent improved modeling analysis. We are issuing this AD to prevent uncontained IP turbine disc failure and damage to the airplane.

DATES: This AD becomes effective September 22, 2003.

ADDRESSES: You may get the service information identified in this AD from Rolls-Royce plc, P.O. Box 31 Derby, DE24 8BJ, United Kingdom; telephone 011–44–1332–242424; fax 011–44–1332–249936.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service information, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299, telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to RR RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines with IP turbine discs, P/Ns FK21117 and FK33083 installed. We published the proposed AD in the **Federal Register** on May 7, 2003 (68 FR 24383). That action proposed to require removal from service of these IP turbine discs based on newly established reduced turbine disc life limits. Information on the reduced life limits may be found in Rolls-Royce Mandatory Service Bulletin (MSB) RB.211–72–E058, dated January 14, 2003.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Include a Reference to RR Service Information

One commenter requests that a reference to RR MSB RB.211–72–E058, dated January 14, 2003, be included in the final rule. The commenter believes

that the reference to the MSB is necessary for traceability to the AD.

The FAA agrees. The MSB reference is included in the **SUPPLEMENTARY INFORMATION** paragraph and in Compliance paragraph (f)(1) of the AD.

Request To Withdraw Unnecessary AD

One commenter states that the new life limits specified in the AD are being included in the Trent 800 Time Limits Manual (Chapter 5); therefore, the AD is unnecessary to mandate the new reduced life limits.

The FAA does not agree. Although the new life limits are being included in the Trent 800 Time Limits Manual, the reduced life limits are not enforceable unless mandated by an AD. Accordingly, the FAA will not change the AD based on this comment.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Changes to 14 CFR Part 39—Effect on the AD

On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. That regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. The material previously was included in each individual AD. Since the material is included in 14 CFR part 39, we will not include it in future AD actions.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2003–NE–08–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2003–16–18 Rolls-Royce plc: Amendment 39–13271. Docket No. 2003–NE–08–AD.

Effective Date

(a) This AD becomes effective September 22, 2003.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines with intermediate pressure (IP) turbine discs part numbers (P/Ns) FK21117 and FK33083 installed. These engines are installed on, but not limited to Boeing 777 airplanes.

Unsafe Condition

(d) This AD is prompted by reports of two IP turbine blade release incidents as a result of dust caps separating from the blades. Subsequently, the manufacturer applied improved modeling techniques for analysis, which revealed higher than predicted operating temperatures at the IP turbine disc rim and surrounding area due to inflow of annulus exhaust gases. The actions specified in this AD are intended to prevent uncontained IP turbine disc failure and damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance cycles specified unless the actions have already been done.

(f) To prevent uncontained IP turbine disc failure and damage to the airplane, do the following:

(1) Remove IP turbine disc P/N FK21117 from service at or before accumulating 8,600 cycles-since-new (CSN), and remove IP turbine disc P/N FK33083 from service at or before accumulating 3,000 CSN. Information on the reduced life limits may be found in Rolls-Royce Mandatory Service Bulletin RB.211–72–E058, dated January 14, 2003.

(2) After the effective date of this AD, do not install any IP turbine disc P/N FK21117, that exceeds 8,600 CSN, or any IP turbine disc P/N FK33083, that exceeds 3,000 CSN.

Alternative Methods of Compliance

(g) Alternative methods of compliance must be requested in accordance with 14 CFR part 39.19, and must be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, FAA.

Material Incorporated by Reference

(h) None.

Related Information

(i) The subject of this AD is addressed in CAA airworthiness directive 002–01–2003, dated January 14, 2003.

Issued in Burlington, Massachusetts, on August 7, 2003.

Francis A. Favara,

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

[FR Doc. 03–20831 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15722; Airspace Docket No. 03–ACE–64]

Modification of Class E Airspace; Lee's Summit, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: An examination of controlled airspace for Lee's Summit, MO revealed discrepancies in the Lee's Summit Municipal Airport reference point, used in the legal description for the Lee's Summit, MO Class E airspace. This action corrects the discrepancies by modifying the Lee's Summit, MO Class E airspace and by incorporating the current Lee's Summit Municipal Airport reference point into the Class E airspace legal description. It also deletes reference to the Lee's Summit nondirectional radio beacon (NBD) from the legal description. This brings the Lee's Summit Class E airspace and its legal description into compliance with FAA orders.

DATES: This direct final rule is effective on 0901 UTC, December 25, 2003. Comments for inclusion in the Rules

Docket must be received on or before September 30, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15722/ Airspace Docket No. 03–ACE–64, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Lee's Summit, MO. It incorporates the current airport reference point for Lee's Summit Municipal Airport and deletes the Lee's Summit NDB from the legal description. It brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15722/Airspace Docket No. 03–ACE–64.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 10113, 10120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Lee's Summit, MO

Lee's Summit Municipal Airport, MO
(lat. 38°57′21″N., long. 94°22′17″W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lee's Summit Municipal Airport

* * * * *

Issued in Kansas City, MO, on August 1, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21083 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15723; Airspace Docket No. 03–ACE–65]

Modification of Class E Airspace; Meade, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: A revised airport reference point for Meade Municipal Airport was

published on July 11, 2003. The airport reference point is used in the legal description for the Meade, KS Class E airspace area. This action modifies Class E airspace at Meade, KS by adapting it to the revised airport reference point. It also incorporates the revised Meade Municipal Airport reference point into the Class E airspace legal description.

DATES: This direct final rule is effective on 0901 UTC, December 25, 2003. Comments for inclusion in the Rules Docket must be received on or before October 1, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15723/ Airspace Docket No. 03–ACE–65, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface of the earth at Meade, KS. An examination of controlled airspace for Meade, KS revealed a difference in the Meade Municipal Airport airport reference point used in the legal description for this airspace area from a revised airport reference point published July 1, 2003. This amendment incorporates the revised Meade Municipal Airport airport reference point and brings the legal description of the Meade, KS Class E airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. This area will be depicted on appropriate aeronautical charts. Class E airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15723/Airspace Docket No. 03–ACE–65.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subject in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE KS E5 Meade, KS

Meade Municipal Airport, KS
(Lat. 37°16′37″ N., long. 100°21′23″ W.)
Meade NDB
(Lat. 37°17′03″ N., long. 100°21′31″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Meade Municipal Airport and within 2.5 miles each side of the 009° bearing from the Meade NDB extending from the 6.5-mile radius to 7 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on July 31, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21082 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15721; Airspace Docket No. 03–ACE–63]

Modification of Class E Airspace; Sullivan, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies Class E airspace at Sullivan, MO. An examination of controlled airspace for Sullivan, MO revealed discrepancies in the Sullivan Regional Airport airport reference point used in the legal description for the Sullivan, MO Class E airspace area. This action corrects the discrepancies by modifying the Sullivan, MO Class E airspace area. It also incorporates the revised Sullivan Regional Airport airport reference point in the Class E airspace legal description.

DATES: This direct final rule is effective on 0901 UTC, December 25, 2003. Comments for inclusion in the Rules Docket must be received on or before September 29, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15721/Airspace Docket No. 03–ACE–63, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 700 feet above the surface of the earth at Sullivan, MO. An examination of controlled airspace for Sullivan, MO revealed discrepancies in the Sullivan Regional Airport airport reference point used in the legal description for this airspace area. This amendment incorporates the revised Sullivan Regional Airport airport reference point and brings the legal description of the Sullivan, MO Class E airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15721/Airspace Docket No. 03–ACE–63.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subject in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Sullivan, MO

Sullivan Regional Airport, MO
(Lat. 38°14′01″ N., long. 92°09′51″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Sullivan Regional Airport and within 2.5 miles each side of the 068° bearing from the airport extending from the 6.4-mile radius to 6.7 miles northeast of the airport.

* * * * *

Issued in Kansas City, MO, on August 1, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21081 Filed 8–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15718; Airspace Docket No. 03–ACE–60]

Modification of Class E Airspace; Wayne, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: An examination of controlled airspace for Wayne, NE revealed a discrepancy in the location of the Wayne, NE nondirectional radio beacon (NDB) used in the legal description for the Wayne, NE Class E airspace. This action corrects the discrepancy by modifying the Wayne, NE Class E airspace and by incorporating the current location of the Wayne NDB in the Class E airspace legal description.

DATES: This direct final rule is effective on *0901 UTC, December 25, 2003.* Comments for inclusion in the Rules docket must be received on or before September 24, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You *must identify the docket number FAA–2003–15718/ Airspace Docket No. 03–ACE–60,* at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area extending upward from 70 feet above the surface at Wayne, NE. It incorporates the current location of the Wayne NDB and brings the legal description of this airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and may be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15718/Airspace Docket No. 03–ACE–60.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g),, 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Wayne, NE

Wayne Municipal Airport, NE
(Lat. 42°14′31″ N., long. 96°58′53″ W.)
Wayne NDB
(Lat. 42°14′33″ N., long. 96°59′01″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wayne Municipal Airport and within 2.6 miles each side of the 047° bearing from the Wayne NDB extending from the 6.5-mile radius to 7 miles northeast of the airport.

* * * * *

Issued in Kansas City, MO, on August 1, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division Central Region.

[FR Doc. 03–21080 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15460; Airspace Docket No. 03–ACE–58]

Modification of Class E Airspace; Aurora, MO

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Direct final rule; request for comments; correction.

SUMMARY: This action corrects a direct final rule; request for comments that was published in the Federal Register on Tuesday, July 29, 2003, (68 FR 44454) [FR Doc. 03–19165]. It corrects an error in the direction of the Aurora, MO Class airspace area extension.

DATES: This direct final rule is effective on 0901 UTC, October 30, 2003.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2514.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 03–19165, published on Tuesday, July 29, 2003, (68 FR 44454) modified Class E airspace at Aurora, MO. The modification was to replace Aurora Memorial Municipal Airport'' in the legal descriptions of Aurora, MO Class E airspace area with ''Jerry Summers Sr. Aurora Municipal Airport'' and to bring the legal description into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The Aurora, MO Class E airspace area was erroneously described as extending north of the airport when it actually extends south of the airport.

■ Accordingly, pursuant to the authority delegated to me, the Aurora, MO Class E airspace, as published in the Federal Register on Tuesday, July 29, 2003, (68 FR 44454), [FR Doc. 03–19165] is corrected as follows:

§ 71.1 [Corrected]

■ On page 44454, Column 3, paragraph headed ACE MO E5 Aurora, MO,'' last line, change ''miles north of the airport'' to read ''miles south of the airport.''

Issued in Kansas City, MO, on July 31, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21078 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, October 30, 2003.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on June 20, 2003 (68 FR 36909). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 30, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Dated: Issued in Kansas City, MO on July 31, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–21077 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Injectable or Implantable Dosage Form New Animal Drugs; Carprofen

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for use of carprofen solution in dogs, by subcutaneous injection, for the control of postoperative pain associated with soft tissue and orthopedic surgeries.

DATES: This rule is effective August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl.,

Rockville, MD 20855, 301–827–7540, e-mail: *mberson@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, filed a supplement to NADA 141–199 for RIMADYL (carprofen) Injectable used for the relief of pain and inflammation associated with osteoarthritis in dogs. The supplemental NADA provides for veterinary prescription use of carprofen solution for the control of postoperative pain associated with soft tissue and orthopedic surgeries in dogs. The supplemental application is approved as of April 2, 2003, and the regulations are amended in 21 CFR 522.312 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning April 2, 2003.

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

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

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Section 522.312 is amended by revising paragraphs (d)(1) and (d)(2) to read as follows:

§ 522.312 Carprofen.

* * * * *

(d) * * *

(1) *Amount.* 2 mg/lb (4.4 mg/kg) body weight once daily or 1 mg/lb (2.2 mg/kg) twice daily, by subcutaneous injection. For the control of postoperative pain, administer approximately 2 hours before the procedure.

(2) *Conditions of use.* For the relief of pain and inflammation associated with osteoarthritis and for the control of postoperative pain associated with soft tissue and orthopedic surgeries.

* * * * *

Dated: August 1, 2003.

Bernadette Dunham,

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

[FR Doc. 03–20997 Filed 8–15–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 886

Ophthalmic Devices

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 800 to 1299, revised as of April 1, 2003, in § 886.1500, on page 456, paragraph (b) is added to read as follows:

§ 886.1500 Headband mirror.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

[FR Doc. 03–55524 Filed 8–15–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 4443]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Automatic Visa Revalidation

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department is adopting as final an interim rule published in the **Federal Register** on March 7, 2002, amending the regulation pertaining to Automatic Visa Revalidation, which was effective on April 1, 2002.

EFFECTIVE DATE: August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Harper, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20520–0106, (202) 663–1221, e-mail (*harperb@state.gov*) or fax at (202) 663–3898.

SUPPLEMENTARY INFORMATION: The Department published an interim rule, Public Notice 3938 at 67 FR 45, March 7, 2002, with a request for comments, amending part 41 of Title 22 of the Code of Federal Regulations.

Why Was This Done?

The rule was proposed primarily because of the need for greater screening of visa applicants in light of the events of September 11, 2001. The rule was discussed in detail in Public Notice 3938, as were the Department's reasons for the other changes to the regulations. This final rule adopts the interim rule without change.

What Did The Interim Rule Do?

The interim rule limited the privilege of automatic revalidation of visas in two respects: first, the privilege is no longer available to persons who choose to apply for a new visa while traveling temporarily to an area covered by the automatic revalidation privilege; and second, it is no longer available to nationals of countries that are state sponsors of terrorism, regardless of whether such nationals apply for a new visa while outside the United States or not. In essence, the addition of ''applying for a visa while abroad'' as a bar against automatic revalidation was undertaken to protect against the possibility that the visa applicant will be found ineligible but will have returned to the United States using the automatic revalidation privilege while the visa application was pending. The bar against nationals of states that have

been found to sponsor terrorism was added for the additional reason that such nationals have become subject to heightened standards of review before visa issuance.

Analysis of Comments

The proposed rule was published with a request for comments on March 11, 2002 (67CFR45). The comment period closed May 7. The Department received roughly 300 comments, half or more of which were verbatim in full or in part with a sample proposed response that circulated through the foreign student community. Most of the first half of the letters (see ''other factors noted, below) quoted the sample proposed response in full; many used only one or two paragraphs from it. The Department therefore is responding to the comments collectively, by subject matter.

Ineffectiveness and Unfairness; Inconvenience

The sample proposed response and many of the letters drawing upon it claimed the following:

1. The amended requirement would not deter the entry of terrorists because, in the new circumstances, any terrorists already in the United States would simply stay here, rather than going to a neighboring country for a new visa. Moreover, they would supply false information if they did go abroad and applied for a visa.

2. This unfairly penalizes the innocent while doing nothing against evil-doers.

3. It is ''not in compliance with U.S. fundamental interests—handicapping the mutual beneficial culture, economic and personnel exchanges between the U.S. and other countries.''

Other Factors Noted

The majority of the other half of letters included one or more of the above viewpoints in addition to the following:

Most of their homes (in their homelands) are very far from a U.S. consulate and it takes much longer to obtain a visa there than in Canada or Mexico. (All, or almost all, of the commenters were from China, India or the Philippines.) Thus, if they cannot apply for a visa in Canada or Mexico without risking their re-admission in case of delays, they will simply have to forego any trips home to see their families. Some closed with the suggestion that, moreover, if they weren't limited to single-entry, six-month visas, they wouldn't need the automatic revalidation so why do we not simply give them more favorable visas to begin with.

They resent the implication that they, as lawful temporary (but long-term) residents (nonimmigrant students and workers) are a threat to the United States.

They have to travel abroad for ''x'' reasons (international meeting, study, research, business) and will not have time to get a visa while at the meeting or whatever. This means that if they have not obtained a reentry visa in Mexico or Canada before keeping that commitment, they will have to forego the activity for which they wish to travel abroad (finishing their studies/research abroad, presenting their paper, *etc.*), or simply go home thereafter, rather than finishing their employment/degree here. The latter course will also risk the loss of their apartments, cars, *etc.,* that they will have left here while on that foreign trip. Left implicit was the idea that if the prior rule applied, they would obtain another visa in Canada/Mexico before travelling to wherever else and not have to face such a harrowing choice.

Department's Response

Although sympathetic to the concerns of the commenters, the Department must note that the privilege of automatic revalidation, instituted some years ago as a convenience both to the travelers and to our consular posts, is just that—a privilege. It is not a right. It is intended primarily to recognize that persons lawfully in the United States may have occasion to cross into and out of Canada or Mexico for brief, casual visits or even in direct transit between one part of the United States and another. In cases involving aliens who are within their authorized stay in the United States but whose visas have expired, it is not always practicable for them to apply for and obtain a new visa to reenter the United after such a departure. Thus a provision was made to consider their visas automatically revalidated for purposes of facilitating such brief trips. Automatic revalidation also became a vehicle for aliens whose visas had expired and who wanted to travel to more distant countries not within the scope of the automatic revalidation regulation (*e.g.*, in Asia or Europe). Under the old automatic revalidation regulation, such aliens could leave the United States temporarily and apply for a new visa in a country such as Mexico or Canada that was covered by the automatic revalidation regulation. This was not the original intent of the regulation, however.

These are difficult and different times, and certain conveniences must be foregone. We are preserving the availability of automatic revalidation for its original fundamental purpose, which is to recognize and facilitate short-term cross-border travel. By eliminating the possibility of automatic revalidation for persons who apply for a visa while outside the United States, we are merely eliminating a use of the regulation that was not central to its purpose. At the same time, however, we are reflecting the new security environment, in which visa processing times are longer and favorable outcomes are significantly less certain.

For those whose complaint was that they wouldn't need that automatic revalidation provision if we would issue them more than 6 month/one entry visas in the first place, we can only note that such matters are governed by reciprocity as well as national security considerations. The question of longer validity periods or multiple versus single entry visas does not even arise if an alien's government does not issue longer validity, multiple entry visas to U.S. citizens for the same purpose of entry.

Preclearance Suggestion

A few letters took a different approach. They suggested that all of the above problems could be resolved if the need for special screening could be met by applying for preclearance (in a timely fashion) before going to Canada or Mexico. That is, use some mechanism for such intending traveler/visa applicants to get security cleared here in the United States in advance of their trip to Canada or Mexico to apply for the visa.

Department's Response

The Department concluded that this proposal is not practicable for a number of reasons, such as the absence of any mechanism in the United States for processing such requests in advance and the lack of resources to establish one. More important is the fact that the time frame for responses to clearance requests is too fluid for realistically estimating when to begin such a process. Therefore it cannot be implemented.

Regulatory Analysis and Notices

Since the final rule is unchanged from the interim rule, and because none of the public comments have called them into question, the Department reiterates the regulatory analysis and notices published in 67 FR 45 on March 7, 2002.

List of Subjects in 22 CFR Part 41

Aliens, Passports and visas.

■ Accordingly, the Department of State adopts as final the interim rule published on March 7, 2002 (67 FR 10322) that revised 22 CFR 41.112(d).

Dated: June 26, 2003.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 03–21070 Filed 8–15–03; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

22 CFR Part 42

[Public Notice 4446]

Documentation of Immigrants Under the Immigration and Nationality Act, As Amended: Electronic Petition for Diversity Immigrant Status

ACTION: Interim rule with request for comments.

SUMMARY: In this rule the Department changes the manner in which aliens may petition for the opportunity to participate in the Diversity Visa Program from a standard mail-in system, to an entirely electronic system that will utilize a specifically designated Internet website. This rule also makes minor technical and editorial changes to the existing rule for the purpose of greater clarity, uniformity and precision. The Department is implementing the new electronic system in order to make the process less prone to fraud, improve efficiency in the diversity visa petition process and significantly reduce the cost to the Government of the process. When the rule is published aliens petitioning to participate in the diversity visa program will be required to submit their petition to the Department exclusively via electronic means.

DATES: This rule becomes effective on August 18, 2003. Written comments must be received on or before October 17, 2003.

ADDRESSES: Written comments may be submitted to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, by fax to 202–663-3898, or by e-mail to *VisaRegs@state.gov.*

FOR FURTHER INFORMATION CONTACT: Ron Acker, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, 202–663–0102.

SUPPLEMENTARY INFORMATION:

What Is the Diversity Visa Program?

The Diversity Visa Program is an annual visa program administered by the Department of State pursuant to section 203(c) of the Immigration and Nationality Act (INA), 8 U.S.C. 1153(c). Aliens from eligible countries (as determined by the Department of Homeland Security) petition the Department for the opportunity to apply for one of 50,000* immigrant visas made available each year pursuant to section 201(e) of the INA, 8 U.S.C. 1151(e) (note that section 201(e) actually provides for 55,000 visas, however, the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA), Title II of P.L. 105–100, stipulated that 5,000 of the immigrant visas made available under section 201(e) would be set aside each year for aliens eligible to adjust their status to that of lawful permanent resident under that Act*). The Department selects and rank orders petitions at random from among those that meet all of the prescribed petition requirements. Aliens whose petitions are selected may then apply for visas in rank order on a first come, first served basis until all of the 50,000* visas for the fiscal year for which the petitions have been selected are issued, or the fiscal year ends, whichever comes first.

What Is the Current Petition Procedure for the Program?

Since the inception of the Diversity Visa Program, the Department has required that all petitions for acceptance of an alien into the program be submitted by mail during a thirty-day period in the fiscal year preceding the fiscal year for which petitioners seek eligibility for the program. To date, submission by any means other than regular mail has been prohibited.

According to the existing rule, individual petitioners have been instructed to include certain information about themselves and their family members on a sheet of paper and to submit that document, signed, along with signed photographs of themselves and family members to the Department at a specific mailing address. Petitions without the required information or signatures and those received before or after the dates of the mail-in period have been automatically disqualified from consideration. Further, the statute authorizing the program permits only one petition submission per applicant. Persons submitting multiple petitions also are disqualified from participation in the program. No fee has been charged at the time of submission of the petition, but recipients of diversity immigrant visas have been required at the time of visa application to pay an additional processing fee beyond that paid by other classes of immigrant visa recipients.

How Will This Rule Change the Petition Procedure?

When this rule becomes effective, alien petitioners for the Diversity Visa Program will no longer be permitted to submit a petition by mail. Instead, the Department will require that all petitions be submitted to it in an electronic format, using an Internet website dedicated specifically to the submission and receipt of Diversity Visa Program petitions. The website will have contained in it a standard petition form which the petitioner, or someone acting for the petitioner, must fill out on-line and send electronically to the Department at a web address. The person completing the petition form will also be required to attach to the electronic petition individual digital photographs of the petitioner and the petitioner's spouse and unmarried children under 21 who will be seeking to accompany or follow to join the petitioner should the petitioner receive a diversity immigrant visa. The photographs will have specific requirements as to size, composition and quality. Fees will be handled as they are under the current rules for diversity program petitions. Because the petition must be submitted electronically, the current requirement that the petition and photographs be signed, is, necessarily, being eliminated.

Why Is the Department Changing the Petition Process in this Manner?

There are three principal reasons the Department believes an electronic petition process is preferable to the existing mail-in process.

Anti-fraud benefits: The Department believes that the electronic petition process will help eliminate the submission of multiple petitions, prohibited under INA section 204(a)(1)(I). Currently, despite the fact that only 50,000* visas are available each year, many millions of petitions are submitted. The Department uses it's limited resources to crosscheck for multiple submissions and create records for only the number of correctly completed petitions sufficient to ensure a pool of visa applicants that will be large enough to guarantee use of all the visas. That number is only a small percentage of the overall total of petitions submitted. Therefore, the likelihood of an alien petitioner of being caught submitting more than one petition is much less than it would be if information from all of the petitions could be entered automatically into the

database and cross-checked for duplicates using name and address matching software. In addition, the use of a digitized photograph will further enhance the Department's anti-fraud capability by permitting facial recognition crosschecking and matching to eliminate multiple applications using false identities. By significantly reducing the amount of fraud to which the existing program is subject, the Department believes it will be helping to eliminate one possible avenue terrorists and other criminal aliens might seek to utilize in order to enter the U.S. Further, because all of the information from all petitions submitted would be stored in a retrievable format, it will also enable the Department to search the database for specific names and faces when asked to do so by intelligence or security agencies.

Cost: The electronic process will be considerably less expensive for the Department to operate than the current procedure. In recent years diversity immigrant program petition submissions have numbered up to thirteen million per year. The cost of receiving, storing and handling this volume of paper documentation has been considerable. In addition to simply opening and sorting this volume of petitions, data taken from the petitions must be entered into the diversity visa database by hand, consuming extensive resources and introducing inevitable human errors that must either be corrected at an additional cost in resources or that eventually will lead to confusion at the time of visa application, resulting in lost time while the truth of the matter is determined. The Department conservatively estimates that the elimination of the paper process can save one million dollars per year by reducing the cost of storage and eliminating the handling of and recording of information from the paper documentation.

Benefit to the petitioners: The new system will benefit the petitioners as well. Currently, under the mail-in system, persons submitting petitions from overseas have no real assurance that the Department will receive their petitions within the prescribed mail-in period. Nor has it been possible to notify them of the receipt of petitions, due to the great volume of submissions. This fact by itself has been an inducement for petitioners to submit multiple petitions in the hope that at least one petition would arrive at the Department in the correct timeframe. An electronic system will guarantee that petitioners are notified of petition receipt virtually simultaneously with the submission of the petition and thus eliminate the incentive to submit multiple petitions.

Won't Some Potential Petitioners in Less-Developed Countries Be Disadvantaged Due to the Lack of Sufficient Internet Facilities in Those Countries?

The Department believes that the argument that some applicants would be disadvantaged, especially in poorer countries, because they would not have ready access to the necessary computer hardware and software to file a petition electronically is offset, especially after September 11, 2001, by the security advantages and cost-saving of the electronic procedure, as well as the benefit to the petitioners of the certain knowledge of receipt of the petitions by the Department within the prescribed application period. Furthermore, the growing use of Internet cafes and similar resources, even in less developed countries, makes on-line registration increasingly convenient. Those unable to access computers themselves would be able to submit applications with the assistance of computer service providers and third parties, which currently advertise their services for the DV program far and wide and could certainly adapt to the new filing procedures. Likewise, the procedures will be flexible enough to permit stateside computer service providers to receive paper petitions from abroad, which they could use to enter the necessary information into the electronic petition form on behalf of the petitioners. While there may be some risk that a few facilitators would overcharge, the Department's experience with the Diversity Visa Program leads it to the conclusion that brisk competition will likely keep charges from becoming cost-prohibitive for most potential petitioners.

What Other Changes Does the Department Propose Making to the Current Regulation?

In addition to minor grammatical and other changes for clarification, the Department is amending subsection (a)(3) regarding use of the Department of Labor's O*Net Online to determine the sufficiency of a petitioner's work experience where such experience is used to qualify the petitioner for participation in the Diversity Visa Program. Reference to the O*Net Online was added by an interim rule dated August 2, 2002 [67 FR 51752] at which time it was stated that the O*Net Online would be used only for the 2003 Diversity Visa Program. The change will make such use a permanent feature of the Diversity Visa Program. The Department also has added gender to the list of required items on the new electronic petition form. That information will assist the Department in the use of facial recognition technology in order to more accurately identify individuals for security and other purposes.

Regulatory Findings

Administrative Procedure Act

The immediate implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based on findings of ''good cause'' pursuant to 5 U.S.C. 553(b) and 553(d)(3). The effective date of this rule on August 18, 2003 is necessary to allow the Department to eliminate as quickly as possible the considerable amount of fraud detected in the Diversity Visa Program and thus prevent the program from being used by aliens who could pose a security threat to the United States or otherwise violate the laws of the United States, including the immigration laws. Because diversity visa applicants must be selected far in advance of the actual date of their visa application in order that they have time to obtain the necessary documentation for their application and make arrangements to appear at an embassy or consulate to make the application, delay for notice and comment would jeopardize the Department's ability to successfully conduct the FY 2005 diversity selection, thus extending for another year the program's susceptibility to high levels of fraud. To prevent such a result, the Department has determined that prior notice and public comment on this rule would be impractical and contrary to the public interest. Accordingly, there is good cause to publish this interim rule and to make it effective upon its publication in the **Federal Register**.

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates 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 $1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed

necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

The Department of State considers this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, it has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

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

Paperwork Reduction Act

The reporting or record-keeping action required from the public under the rule requires the approval of the Office of Management and Budget under the Paperwork Reduction Act. A form to be used for petitioning the Department electronically for participation in the Diversity Visa Program will be forwarded to OMB as required.

List of Subjects in 22 CFR Part 42

Aliens, Immigrants, Passports and visas.

■ Accordingly, for the reasons set forth in the preamble, 22 CFR part 42 is amended as follows:

PART 42—[AMENDED]

■ 1. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104; 2651a.

■ 2. Revise § 42.33 to read as follows:

§ 42.33 Diversity immigrants.

(a) *General.* (1) *Eligibility to compete for consideration under section 203(c).* An alien will be eligible to compete for consideration for visa issuance under INA 203(c) during a fiscal year only if he or she is a native of a low-admission foreign state, as determined by the Secretary of Homeland Security pursuant to INA 203(c)(1)(E), with respect to the fiscal year in question; and if he or she has at least a high school education or its equivalent or, within the five years preceding the date of application for a visa, has two years of work experience in an occupation requiring at least two years training or experience. The eligibility for a visa under INA 203(c) ceases at the end of the fiscal year in question. Under no circumstances may a consular officer issue a visa or other documentation to an alien after the end of the fiscal year during which an alien possesses diversity visa eligibility.

(2) *Definition of high school education or its equivalent.* For the purposes of this section, the phrase high school education or its equivalent means the successful completion of a twelve-year course of elementary and secondary education in the United States or successful completion in another country of a formal course of elementary and secondary education comparable to completion of twelve years' elementary and secondary education in the United States.

(3) *Determinations of work experience.* For all cases registered for the 2003 Diversity Visa Program and Diversity Visa Programs occurring in subsequent fiscal years, consular officers must use the Department of Labor's O*Net On Line to determine qualifying work experience.

(4) *Limitation on number of petitions per year.* No more than one petition may be submitted by or on behalf of, any alien for consideration during any single fiscal year. If two or more petitions for any single fiscal year are submitted by, or on behalf of, any alien, all such petitions will be void pursuant to INA 204(a)(1)(I)(i) and the alien by or for whom the petition has been submitted will not be eligible for consideration for diversity visa issuance during the fiscal year in question.

(5) *Northern Ireland.* For purposes of determining eligibility to file a petition for consideration under INA 203(c) for a fiscal year, the districts comprising that portion of the United Kingdom of Great Britain and Northern Ireland, known as ''Northern Ireland'', will be treated as a separate foreign state. The districts comprising ''Northern Ireland'' are Antrim, Ards, Armagh, Ballymena, Ballymoney, Banbridge, Belfast, Carrickfergus, Castlereagh, Coleraine, Cookstown, Craigavon, Down, Dungannon, Fermanagh, Larne, Limavady, Lisburn, Londonderry, Magherafelt, Moyle, Newry and Mourne, Newtownabbey, North Down, Omagh, and Strabane.

(b) *Petition requirement.* An alien claiming to be entitled to compete for consideration under INA 203(c) must file a petition with the Department of State for such consideration. At the alien petitioner's request, another person may file a petition on behalf of the alien. The petition will consist of an electronic entry form that the alien petitioner or a person acting on the behalf of the alien petitioner must complete on-line and submit to the Department of State via a Web site established by the Department of State for the purpose of receiving such petitions. The Department will specify the address of the Web site prior to the commencement of the 30-day or greater period described in paragraph (b)(3) of this section using the notice procedure prescribed in that paragraph.

(1) *Information to be provided in the petition.* The website will include the electronic entry form mentioned in paragraph (b) of this section. The entry form will require the person completing the form to provide the following information, typed in the Roman alphabet, regarding the alien petitioner:

(i) The petitioner's full name;

(ii) The petitioner's date and place of birth (including city and country, province or other political subdivision of the country);

(iii) The petitioner's gender;

(iv) The country of which the petitioner claims to be a native, if other than the country of birth;

(v) The name[s], date[s] and place[s] of birth and gender of the petitioner's spouse and child[ren], if any, (including legally adopted and step-children), regardless of whether or not they are living with the petitioner or intend to accompany or follow to join the petitioner should the petitioner immigrate to the United States pursuant to INA 203(c), but excluding a spouse or a child[ren] who is already a U.S. citizen or U.S. lawful permanent resident;

(vi) A current mailing address for the petitioner;

(vii) The location of the consular office nearest to the petitioner's current residence or, if in the United States, nearest to the petitioner's last foreign residence prior to entry into the United States;

(2) *Requirements for photographs.* The electronic entry form will also

require inclusion of a recent photograph of the petitioner and of his or her spouse and all unmarried children under the age of 21 years. The photographs must meet the following specifications:

(i) A digital image of the applicant from either a digital camera source or a scanned photograph via scanner. If scanned, the original photographic print must have been 2″ by 2″ (50mm x 50mm). Scanner hardware and digital image resolution requirements will be further specified in the public notice described in paragraph (b)(3) of this section.

(ii) The image must be in the Joint Photographic Experts Group (JPEG) File Interchange Format (JFIF) format.

(iii) The image can be either in color or black and white.

(iv) The person being photographed must be directly facing the camera with the head neither tilted up, down, or to the side. The head must cover about 50% of the area of the photograph.

(v) The photograph must be taken with the person in front of a neutral, light-colored background. Photos taken with very dark or patterned, busy backgrounds will not be accepted.

(vi) The person's face must be in focus.

(vii) The person in the photograph must not wear sunglasses or other paraphernalia that detracts from the face.

(viii) A photograph with the person wearing a head covering or a hat is only acceptable if the covering or hat is worn specifically due to that person's religious beliefs, and even then, the hat or covering may not obscure any portion of the face. A photograph of a person wearing tribal, military, airline or other headgear not specifically religious in nature will not be accepted.

(3) *Submission of petition.* A petition for consideration for visa issuance under INA 203(c) must be submitted to the Department of State by electronic entry to an Internet website designated by the Department for that purpose. No fee will be collected at the time of submission of a petition, but a processing fee may be collected at a later date, as provided in paragraph (i) of this section. The Department will establish a period of not less than thirty days during each fiscal year within which aliens may submit petitions for approval of eligibility to apply for visa issuance during the following fiscal year. Each fiscal year the Department will give timely notice of both the website address and the exact dates of the petition submission period, as well as other pertinent information, through publication in the **Federal Register** and such other methods as will ensure the widest possible dissemination of the information, both abroad and within the United States.

(c) *Processing of petitions.* Entries received during the petition submission period established for the fiscal year in question and meeting all of the requirements of paragraph (b) of this section will be assigned a number in a separate numerical sequence established for each regional area specified in INA 203(c)(1)(F). Upon completion of the numbering of all petitions, all numbers assigned for each region will be separately rank-ordered at random by a computer using standard computer software for that purpose. The Department will then select in the rank orders determined by the computer program a quantity of petitions for each region estimated to be sufficient to ensure, to the extent possible, usage of all immigrant visas authorized under INA 203(c) for the fiscal year in question. The Department will consider petitions selected in this manner to have been approved for the purposes of this section.

(d) *Validity of approved petitions.* A petition approved pursuant to paragraph (c) of this section will be valid for a period not to exceed Midnight of the last day of the fiscal year for which the petition was approved. At that time, the Department of State will consider approval of the petition to cease to be valid pursuant to INA 204(a)(1)(I)(ii)(II), which prohibits issuance of visas based upon petitions submitted and approved for a fiscal year after the last day of that fiscal year.

(e) *Order of consideration.* Consideration for visa issuance to aliens whose petitions have been approved pursuant to paragraph (c) of this section will be in the regional rank orders established pursuant that paragraph.

(f) *Allocation of visa numbers.* To the extent possible, diversity immigrant visa numbers will be allocated in accordance with INA 203(c)(1)(E) and will be allotted only during the fiscal year for which a petition to accord diversity immigrant status was submitted and approved. Under no circumstances will immigrant visa numbers be allotted after midnight of the last day of the fiscal year for which the petition was submitted and approved.

(g) *Further processing.* The Department will inform applicants whose petitions have been approved pursuant to paragraph (c) of this section of the steps necessary to meet the requirements of INA 222(b) in order to apply formally for an immigrant visa.

(h) *Maintenance of certain information.* (1) The Department will compile and maintain the following information concerning petitioners to whom immigrant visas are issued under INA 203(c):

(i) Age;

(ii) Country of birth;

(iii) Marital status;

(iv) Sex;

(v) Level of education; and

(vi) Occupation and level of occupational qualification.

(2) The Department will not maintain the names of visa recipients in connection with this information and the information will be compiled and maintained in such form that the identity of visa recipients cannot be determined therefrom.

(i) *Processing fee.* In addition to collecting the immigrant visa application fee and, if applicable, issuance fees, as provided in §42.71(b) of this part, the consular officer must also collect from each applicant for a visa under the Diversity Immigrant Visa Program such processing fee as the Secretary of State prescribes.

Dated: August 8, 2003.

Maura Harty,

Assistant Secretary of State, Bureau of Consular Affairs, Department of State.

[FR Doc. 03–21071 Filed 8–15–03; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP New Orleans–03–024]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, Above Head of Passes, Mile Marker 88.1 to 90.4, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Lower Mississippi River (LMR), beginning at mile marker 88.1 and ending at mile marker 90.4, Above Head of Passes, extending the entire width of the river. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST beneath the Entergy Corporation power cables located at mile marker 89.2, LMR. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or a designated representative.

DATES: This rule is effective from 4 a.m. on July 12, 2003 until 8 p.m. on January 11, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP New Orleans–03–024] and are available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, Louisiana, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) James Fogle, Marine Safety Office New Orleans, at (504) 589–4222.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. 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), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners from the hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST under the Entergy Corporation power cable, Lower Mississippi River (LMR), mile marker 89.2, Above Head of Passes, New Orleans, Louisiana.

Background and Purpose

The Captain of the Port New Orleans is establishing a temporary safety zone on the LMR beginning at mile 88.1 and ending at 90.4, Above Head of Passes, extending the entire width of the river. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST beneath the Entergy Corporation power cable located at mile 89.2 LMR. The C/S CONQUEST has an air draft of 208 feet and is home ported in New Orleans at the Julia Street Wharf, LMR, mile marker 95.3, Above Head of Passes, New Orleans, Louisiana. The Entergy Corporation power cable is 212.6 feet North American Vertical Datum (NAVD) at the center of the Lower Mississippi River and increases in height to a maximum of 366.4 feet NAVD on the East bank and a maximum of 361.1 feet NAVD on the West bank. As the C/S CONQUEST needs an air gap of 14 feet between it and the cable to prevent arcing, the vessel must maneuver within about 400 to 600 feet of the East bank or within about 400 to 700 feet of the West bank to safely transit under the Entergy Corporation power cable. Vessels transiting this area may restrict the maneuverability of the C/S CONQUEST through those safe passage lanes and possibly result in harm to life or damage to the cruise ship, the power cable, or nearby vessels.

This rule will be enforced from 3:15 a.m. until 3:45 a.m. and 6 p.m. to 6:30 p.m. every Sunday between July 12, 2003 and January 11, 2004. These periods of enforcement are based on the predicted cruise schedule for the C/S CONQUEST and are subject to change. The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

The rule also prohibits vessels from anchoring in the New Orleans Emergency Anchorage or the New Orleans General Anchorage below mile marker 90.4, which is the location of Chalmette Slip and 350 yards upriver of the Belle Chasse Launch Service's West Bank Dock. These vessels could restrict the maneuverability of the C/S CONQUEST through safe passage lanes and possibly result in harm to life or damage to the cruise ship, the power cable, or nearby vessels. Vessels anchored within the New Orleans Emergency Anchorage are already required by 33 CFR § 110.195(a)(16) to obtain permission from the Captain of Port New Orleans prior to anchoring. The New Orleans General Anchorage is from mile 90.1 to 90.9 LMR with only 0.3 miles of the anchorage affected by this temporary final rule. This prohibition is effective two hours prior to the arrival and departure of the C/S CONQUEST or until it safely passes under the crossing.

Except as described in this rule, all vessels are prohibited from entering, anchoring or transiting within the zone during the announced enforcement periods unless authorized by the Captain of the Port New Orleans or a designated representative. Vessels may request authorization to transit through the safety zone by contacting the Captain of the Port New Orleans or a designated representative. Moored vessels are permitted to remain within the safety zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The Coast Guard has met with members of local maritime industry including Carnival Cruise Lines, Entergy, the New Orleans Port Commission, pilots association, owners of water front facilities located within or adjacent to the zone as well as agents and shipping companies to discuss safety concerns associated with the transit and measures to reduce the impact of the safety zone on the local maritime community.

This rule will only affect maritime traffic for short periods of time. The impact on routine navigation is expected to be minimal as the zone will only be in effect for two hours, twice each week. Furthermore, the Captain of the Port New Orleans or a designated representative may permit movements within the zone that do not impact the passage of the C/S CONQUEST, further limiting the impact of the zone.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or remain at anchor within the safety zone from mile marker 88.1, to mile marker 90.4 LMR, while the C/S CONQUEST is transiting this area upbound and downbound. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only one hour, twice each week. Furthermore, the Captain of the Port New Orleans or a designated representative may permit movements within the zone that do not impact the passage of the C/S CONQUEST, further limiting the impact of the zone.

If you are a small business entity and are significantly affected by this regulation please contact LT James Fogle, Marine Safety Office New Orleans, at (504) 589–4222.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping 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. 1226, 1231; 46 U.S.C. 701; 50 U.S.C. 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise temporary § 165.T08–090 to read as follows:

§ 165.T08–090 Safety Zone; Lower Mississippi River, Mile Marker 88.1 to 90.4, Above Head of Passes, New Orleans, LA.

(a) *Location.* The following area is a safety zone: the entire width of the Lower Mississippi River (LMR), above Head of Passes, beginning at mile marker 88.1, which is the location of the lower end of the Algiers Lock fore bay, and ending at mile marker 90.4, which is the location of the Chalmette Slip and 350 yards upriver of the Belle Chasse Launch Service's West Bank Dock.

(b) *Effective date.* This section is effective from 4 a.m. on July 12, 2003 until 8 p.m. on January 11, 2004.

(c) *Periods of enforcement.* This section will be enforced from 3:15 a.m. until 3:45 a.m. and 6 p.m. to 6:30 p.m. every Sunday between July 12, 2003 and January 11, 2004. These periods of enforcement are based on the predicted cruise schedule for the C/S CONQUEST and are subject to change. The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, except as described in this rule, entry into this zone is prohibited unless authorized by the Captain of the Port New Orleans or a designated representative.

(2) The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

(3) Vessels are prohibited from anchoring in the New Orleans Emergency Anchorage or the New Orleans General Anchorage below mile marker 90.4, which is the location of Chalmette Slip and 350 yards upriver of the Belle Chasse Launch Service's West Bank Dock. This prohibition is effective

two hours prior to the arrival and departure of the C/S CONQUEST or until it safely passes under the crossing.

(4) Moored vessels are permitted to remain within the safety zone.

(5) Vessels requiring entry into or passage through the zone during the enforcement periods must request permission from the Captain of the Port New Orleans or designated representatives including the VTC and designated on-scene U.S. Coast Guard patrol personnel. The VTC may be contacted via VHF Channel 67 or by telephone at (504) 589–2780. On-scene U.S. Coast Guard patrol personnel may be contacted via VHF Channel 67.

(6) All persons and vessels shall comply with the instruction of the Captain of the Port New Orleans and designated representatives including the VTC and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: July 12, 2003.

Ronald W. Branch,

Captain, U.S. Coast Guard, Captain of the Port, New Orleans.

[FR Doc. 03–21090 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–03–026]

RIN 1625–AA00

Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing regulations for the security and safety of large passenger vessels in the navigable waters of Puget Sound and adjacent waters, Washington. This security and safety zone will provide for the regulation of vessel traffic in the vicinity of large passenger vessels in the navigable waters of the United States.

DATES: This rule is effective from August 8, 2003, until February 8, 2004.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: ENS Tyana Thayer c/o Captain of the Port Puget Sound, (206) 217–6222.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to continue to safeguard large passenger vessels from sabotage, other subversive acts, or accidents. If normal notice and comment procedures were followed, this rule would not become effective soon enough to provide immediate protection to large passenger vessels from threats posed by hostile entities and would compromise the vital national interest in protecting maritime transportation and commerce. The security and safety zone in this regulation has been carefully designed to minimally impact the public while providing a reasonable level of protection for large passenger vessels. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

On March 31, 2003, the Captain of the Port Puget Sound published a temporary final rule (TFR) (68 FR 15375, CGD13–03–003, 33 CFR 165.T13–002) establishing security and safety zones for the protection of large passenger vessels, which expires on August 8, 2003. On June 20, 2003, the Captain of the Port Puget Sound issued a notice of proposed rulemaking (NPRM) entitled ''Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA''. This NPRM was published in the **Federal Register** on July 15, 2003 (68 FR 41764). In drafting the proposed rule, the Coast Guard considered comments received regarding the scope and impact of the original TFR. *See*, Discussion of Proposed Rule, 68 FR at 41765. In response to these comments, the Coast Guard modified the definition of large passenger vessel by excluding small passenger vessels (vessels inspected and certificated under 46 CFR chapter I, subchapter T) thereby decreasing the number of vessels with security and safety zones around them. In addition, the Coast Guard reduced the size of the exclusionary zone from 100 yards to 25 yards for a large passenger vessel that is moored.

The intent behind the rule proposed in the NPRM was to continue to assist large passenger vessels by establishing a permanent security and safety zone that when enforced by the Captain of the Port would exclude persons and vessels from the immediate vicinity of all large passenger vessels. However, the original TFR, which was published on March 31, will expire before the notice and comment period in the NPRM closes. In other words, a permanent security and safety zone will not become effective before the original TFR expires.

The Captain of the Port Puget Sound deems it necessary that a security and safety zone around large passenger vessels continue to be in effect until such time as a permanent rule is established. Rather than extend the previous TFR, the Captain of the Port Puget Sound is issuing this TFR, which is not substantially different from the proposed rule. To date, the Coast Guard has not received any comments regarding the rule proposed in the NPRM.

Discussion of Rule

This rule, for security and safety concerns, will control vessel movement in a regulated area surrounding large passenger vessels. For the purpose of this rule, a large passenger vessel means any cruise ship over 100 feet in length carrying passengers for hire and any auto ferries and passenger ferries over 100 feet in length carrying passengers for hire such as the Washington State Ferries, M/V COHO and Alaskan Marine Highway Ferries. All vessels within 500 yards of large passenger vessels must operate at the minimum speed necessary to maintain a safe course, and must proceed as directed by the official patrol. No vessel, except a public vessel (as defined in 33 CFR 165.T13–017(a)), is allowed within 100 yards of a large passenger vessel that is underway or at anchor, unless authorized by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 25 yards of a large passenger vessel that is moored. Vessels requesting to pass within 100 yards of a large passenger vessel that is underway or at anchor shall contact the on-scene official patrol or large passenger vessel master on VHF–FM channel 16 or 13. The on-scene official patrol or large passenger vessel master may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a large passenger vessel that is underway or at

anchor in order to ensure a safe passage in accordance with the Navigation Rules. In addition, measures or directions issued by Vessel Traffic Service Puget Sound pursuant to 33 CFR part 161 shall take precedence over the regulations in this temporary final rule. Similarly, when a large passenger vessel approaches within 100 yards of any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains in the large passenger vessels security and safety zone unless it is either ordered by, or given permission by the Captain of the Port, his designated representative or the on-scene official patrol to do otherwise. Public vessels for the purpose of this temporary final rule are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

Marine Safety Office Puget Sound maintains a telephone line that is manned 24 hours a day, 7 days a week. The public can contact Marine Safety Office Puget Sound at (206) 217–6200 or (800) 688–6664 to obtain information concerning enforcement of this rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the on-scene official patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the large passenger vessel security and safety zone for any given transiting large passenger vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of large passenger vessels in the navigable waters of the United States to which this rule applies.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual large passenger vessel security and safety zones are limited in size; (ii) the on-scene official patrol or large passenger vessel master may authorize access to the large passenger vessel security and safety zone; (iii) the passenger vessel security and safety zone for any given transiting large passenger vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule 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 would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of this rule to accommodate the special needs of mariners in the vicinity of large passenger vessels and the Coast Guard's

commitment to working with the Tribes, we have determined that passenger vessel security and fishing rights protection need not be incompatible and therefore have determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT.**

Energy Effects

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

Environment

The Coast Guard's preliminary review indicates this rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D. The environmental analysis and Categorical Exclusion Determination will be prepared and be available in the docket for inspection and copying where indicated under **ADDRESSES.** All standard environmental measures remain in effect.

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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.

■ 2. From August 8, 2003, until February 8, 2004, temporary § 165.T13–017 is added to read as follows:

§ 165.T13–017 Security and Safety Zone; Large Passenger Vessel Protection, Puget Sound and adjacent waters, Washington.

(a) *Definitions.* The following definitions apply to this section:

Federal Law Enforcement Officer means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

Large Passenger Vessel means any cruise ship over 100 feet in length carrying passengers for hire, and any auto ferries and passenger ferries over 100 feet in length carrying passengers for hire such as the Washington State Ferries, M/V COHO and Alaskan Marine Highway Ferries. Large Passenger Vessel does not include vessels inspected and certificated under 46 CFR chapter I, subchapter T, such as excursion vessels, sight seeing vessels, dinner cruise vessels, and whale watching vessels.

Large Passenger Vessel Security and Safety Zone is a regulated area of water established by this section, surrounding large passenger vessels for a 500-yard radius to provide for the security and safety of these vessels.

Navigable waters of the United States means those waters defined as such in 33 CFR part 2.

Navigation Rules means the Navigation Rules, International-Inland.

Official Patrol means those persons designated by the Captain of the Port to monitor a large passenger vessel security and safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized in paragraph (k) to enforce this section are designated as the Official Patrol.

Public vessel means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

Washington Law Enforcement Officer means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace Officer as defined in Revised Code of Washington section 10.93.020.

(b) *Security and safety zone.* There is established a large passenger vessel security and safety zone extending for a 500-yard radius around all large passenger vessels located in the navigable waters of the United States in Puget Sound, WA, east of 123°30′ West Longitude. [Datum: NAD 1983]

(c) *Compliance.* The large passenger vessel security and safety zone established by this section remains in effect around large passenger vessels at all times, whether the large passenger vessel is underway, anchored, or moored.

(d) *Navigation Rules applicability.* The Navigation Rules shall apply at all times within a large passenger vessel security and safety zone.

(e) *Restrictions based on distance from large passenger vessel.* When within a large passenger vessel security and safety zone all vessels must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 100 yards of a large passenger vessel that is underway or at anchor, unless authorized by the on-scene official patrol or large passenger vessel master. No vessel or person is allowed within 25 yards of a large passenger vessel that is moored.

(f) *Requesting authorization to operate within 100 yards of large passenger vessel.* To request authorization to operate within 100 yards of a large passenger vessel that is underway or at anchor, contact the on-scene official patrol or large passenger vessel master on VHF–FM channel 16 or 13.

(g) *Maneuver-restricted vessels.* When conditions permit, the on-scene official patrol or large passenger vessel master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large passenger vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of an anchored large passenger vessel or within 25 yards of a moored large passenger vessel with minimal delay consistent with security.

(h) *Stationary vessels.* When a large passenger vessel approaches within 100 yards of any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it

remains with in the large passenger vessel's security and safety zone unless it is either ordered by, or given permission by the Captain of the Port Puget Sound, his designated representative or the on-scene official patrol to do otherwise.

(i) *Exemption.* Public vessels as defined in paragraph (a) of this section are exempt from complying with paragraphs (b), (c), (e), (f), (g), and (h), of this section.

(j) *Exception.* 33 CFR part 161 contains Vessel Traffic Service regulations. Measures or directions issued by Vessel Traffic Service Puget Sound pursuant to 33 CFR part 161 will take precedence over the regulations in this section.

(k) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section applies, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to provide effective enforcement of this section in the vicinity of a large passenger vessel, any Federal Law Enforcement Officer or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section.

(l) *Waiver.* The Captain of the Port Puget Sound may waive any of the requirements of this section for any vessel or class of vessels upon finding that a vessel or class of vessels, operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: August 8, 2003.

Danny Ellis,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 03–21087 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR PART 111

Price of Semipostal Stamp

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends the *Domestic Mail Manual* (DMM) to reflect the introduction of the *Stop Family Violence* semipostal stamp.

DATES: This rule is effective on October 11, 2003.

ADDRESSES: Questions about this rule may be addressed to the Manager, Stamp Services, ATTN: *Stop Family Violence* Semipostal Stamp DMM Rules, 475 L'Enfant Plaza SW., Room 5670, Washington, DC 20260–2435.

FOR FURTHER INFORMATION CONTACT: Cindy Tackett at (202) 268–6555.

SUPPLEMENTARY INFORMATION: The Postal Service is amending Sections P022 and R000 of the DMM to reflect the enactment of the Stamp Out Domestic Violence Act of 2001, Public Law No. 107–67, § 653, 115 Stat. 558 (2001). This notice also adopts DMM standards implementing the decision of the Governors of the United States Postal Service on the price of the *Stop Family Violence* semipostal stamp.

Public Law No. 107–67 directs the Postal Service to issue a semipostal stamp in order to give the public the opportunity to contribute to domestic violence programs. The *Stop Family Violence* semipostal stamp is to be issued on October 11, 2003, and may remain on sale through December 31, 2006. Funds raised in connection with this semipostal stamp are to be transferred to the Department of Health and Human Services.

Under 39 U.S.C. 416, the Governors are authorized to determine the price of semipostal stamps. On March 4, 2003, the Governors voted to set the price of the *Stop Family Violence* semipostal stamp at 45 cents. The price of the *Stop Family Violence* semipostal stamp is effective on October 11, 2003, the date of the stamp's issuance.

Section P022 of the DMM is amended to reflect the introduction of the *Stop Family Violence* semipostal stamp. Section R000 of the DMM is amended to reflect the price and postage value of the *Stop Family Violence* semipostal stamp.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding rulemaking by 39 U.S.C. 410(a), the Postal Service hereby amends the following standards of the DMM, incorporated by reference into the *Code of Federal Regulations.* See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ For the reasons set out in the preamble, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Revise the following sections of the DMM as set forth below:

Domestic Mail Manual (DMM)

* * * * *

P Postage and Payment Methods

* * * * *

P000 Basic Information

* * * * *

P020 Postage Stamps and Stationery

* * * * *

P022 Postage Stamps

1.0 PURCHASE AND USE

* * * * *

1.6 Semipostal Stamps

* * * * *

b. The following semipostal stamps are available:

* * * * *

[Revise the text of 1.6b to add subsection (3) to read as follows:]

(3) The *Stop Family Violence* semipostal stamp. The difference between the purchase price and the First-Class Mail nonautomation single-piece first-ounce letter rate in effect at the time of purchase constitutes a contribution to domestic violence programs and cannot be used to pay postage. Funds (net of the Postal Service's reasonable costs) raised in connection with the *Stop Family Violence* semipostal stamp are transferred to the Department of Health and Human Services.

* * * * *

[Revise the text of 1.6c to read as follows:]

c. The postage value of each semipostal stamp is the First-Class Mail nonautomation single-piece first-ounce letter rate in R100.1.2 that is in effect at the time of purchase. Additional postage must be affixed to pieces weighing in excess of 1 ounce, pieces subject to the nonstandard surcharge, or pieces for which special services have been elected. The postage value of semipostal stamps purchased before any subsequent change in the First-Class Mail nonautomation single-piece first-ounce letter rate is unaffected by any subsequent change in that rate. The purchase price of each semipostal stamp is listed in R000.4.0.

* * * * *

R Rates and Fees

R000 Stamps and Stationery

* * * * *

4.0 POSTAGE STAMPS

[Revise the table in 4.0 to add the following at the end of the table:]

Form per purpose	Denomination
* * *	* * * * *
Stop Family Violence Panes of up to 20	Purchase price of $0.45; postage value equivalent to First-Class Mail nonautomation single-piece rate ($0.37); remainder is contribution to fund domestic violence programs.

* * * * *

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 03–19936 Filed 8–15–03; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AZ NV–095–NEGDECa; FRL–7534–8]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Commercial/Industrial Solid Waste Incinerator Units; Arizona; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve negative declarations submitted by various local air pollution control agencies in Arizona and Nevada. Each negative declaration certifies that commercial/industrial solid waste incinerator units, subject to the requirements of sections 111(d) and 129 of the Clean Air Act, do not exist within the relevant agency's air pollution control jurisdiction.

DATES: This rule is effective on October 17, 2003 without further notice, unless EPA receives adverse comments by September 17, 2003. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947–4124.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111(d) and 129 of the Clean Air Act (CAA or the Act) require States to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources. However, section 129 of the CAA also requires EPA to promulgate EG for commercial/industrial solid waste incinerator (CISWI) units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity).

On December 1, 2000 (65 FR 75338), EPA promulgated CISWI unit new source performance standards and EG, located at 40 CFR part 60, subparts CCCC and DDDD, respectively. The designated facility to which the EG apply is each existing CISWI unit, as defined in subpart DDDD, that commenced construction on or before November 30, 1999.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of State plans for controlling designated pollutants. Also, 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are located in a State, the State must then develop and submit a plan for the control of the designated pollutant. However, 40 CFR 60.23(b) and 62.06 provide that if there are no existing sources of the designated pollutant in the State, the State may submit a letter of certification to that effect (*i.e.*, negative declaration) in lieu of a plan. The negative declaration exempts the State from the requirements of subpart B for the submittal of a 111(d)/129 plan.

II. Final EPA Action

The following air pollution control agencies have determined that there are no designated facilities subject to the CISWI unit EG requirements in their respective air pollution control jurisdictions: Arizona Department of Environmental Quality (Arizona DEQ), Maricopa County Environmental Services Department (Maricopa County ESD), Pima County Air Quality District (Pima County AQD), Pinal County Air Quality Control District (Pinal County AQCD), Clark County Department of Air Quality Management (Clark County DAQM), Washoe County District Health Department Air Quality Management Division (Washoe County DHD AQMD). Accordingly, each air pollution control agency has submitted to EPA a negative declaration letter certifying this fact. The submittal dates of these letters are listed in the following table:

Air pollution control agency	Date of negative declaration
Arizona DEQ	April 25, 2003
Maricopa County ESD.	February 4, 2003
Pima County AQD	February 5, 2003
Pinal County AQCD ..	January 24, 2003
Clark County DAQM	February 27, 2003
Washoe County DHD AQMD.	January 28, 2003

EPA is amending part 62 to reflect the receipt of these negative declaration letters from the noted air pollution control agencies. Amendments are being made to 40 CFR part 62, subpart D (Arizona), and subpart DD (Nevada).

After publication of this **Federal Register** notice, if a CISWI facility is later found within any of these noted jurisdictions, then the overlooked facility will become subject to the requirements of the Federal CISWI 111(d)/129 plan, including the compliance schedule, when

promulgated. The Federal plan would no longer apply if EPA subsequently were to receive and approve a 111(d)/129 plan from the jurisdiction with the overlooked CISWI facility.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action simply reflects already existing Federal requirements for State air pollution control agencies under 40 CFR parts 60 and 62. In the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve each negative declaration should relevant adverse or critical comments be filed.

This rule will be effective October 17, 2003 without further notice unless the Agency receives relevant adverse comments by September 17, 2003. If EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. 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, then EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. 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 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the 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 111(d)/129 plan submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 October 17, 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 the section 111(d)/129 negative declarations submitted by the air pollution control agencies in Arizona and Nevada may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: July 8, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

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

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

■ 2. Subpart D is amended by adding an undesignated center heading and § 62.650 to read as follows:

Emissions From Existing Commercial/Industrial Solid Waste Incineration Units

§ 62.650 Identification of plan.

(a) The Arizona Department of Environmental Quality submitted on April 25, 2003, a letter certifying that there are no existing commercial/industrial solid waste incineration units within the Department's jurisdiction that are subject to 40 CFR part 60, subpart DDDD.

(b) The Maricopa County Environmental Services Department submitted on February 4, 2003, a letter certifying that there are no existing commercial/industrial solid waste incineration units within the Department's jurisdiction that are subject to 40 CFR part 60, subpart DDDD.

(c) The Pima County Air Quality District submitted on February 5, 2003, a letter certifying that there are no existing commercial/industrial solid waste incineration units within the District's jurisdiction that are subject to 40 CFR part 60, subpart DDDD.

(d) The Pinal County Air Quality Control District submitted on January 24, 2003, a letter certifying that there are no existing commercial/industrial solid waste incineration units within the District's jurisdiction that are subject to 40 CFR part 60, subpart DDDD.

Subpart DD—Nevada

■ 3. Subpart DD is amended by adding an undesignated center heading and § 62.7130 to read as follows:

Emissions From Existing Commercial/Industrial Solid Waste Incineration Units

§ 62.7130 Identification of plan.

(a) The Clark County Department of Air Quality Management submitted on February 27, 2003, a letter certifying that there are no existing commercial/industrial solid waste incineration units in Clark County that are subject to 40 CFR part 60, subpart DDDD.

(b) The Washoe County District Health Department Air Quality Management Division submitted on January 28, 2003, a letter certifying that there are no existing commercial/industrial solid waste incineration units in Washoe County that are subject to 40 CFR part 60, subpart DDDD.

[FR Doc. 03–21054 Filed 8–15–03; 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-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

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

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Study Branch, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: Federal Emergency Management Agency makes the final determinations listed below of the modified BFEs for each community listed. These modified elevations have been published in newspapers of local 2 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 BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFEs determinations are available for inspection.

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

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

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

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

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

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

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

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

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

Executive Order 12612, Federalism. This rule involves no policies that have federalism implication 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 and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arizona: Cochise (FEMA Docket No.: B–7436).	City of Sierra Vista (01–09–019P).	Dec. 26, 2002, Jan. 2, 2003, *Sierra Vista Herald*.	The Honorable Thomas J. Hessler, Mayor, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, Arizona 85635.	Jul. 31, 2001	040017
Arizona: Cochise (FEMA Docket No.: B–7436).	City of Sierra Vista (00–09–1071P).	Dec. 26, 2002, Jan. 2, 2003, *Sierra Vista Herald*.	The Honorable Thomas J. Hessler, Mayor, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, Arizona 85635.	Apr. 24, 2001	040017
Arizona: Cochise (FEMA Docket No.: B–7436).	Unincorporated Areas (00–09–1071P).	Jan. 17, 2001, Jan. 24, 2001, *Arizona Range News*.	The Honorable Pat Call, Chairman, Cochise County, Board of Supervisors, 1415 West Melody Lane, Bisbee, Arizona 85603.	Apr. 24, 2001	040012
Arizona: Cochise (FEMA Docket No.: B–7436).	City of Willcox (02–09–726P).	Feb. 19, 2003, February 26, 2003, *Arizona Range News*.	The Honorable Marlin Easthouse, Mayor, City of Willcox, 101 South Railroad Avenue, Willcox, Arizona 85643.	Jan. 27, 2003	040018
Arizona: Coconino (FEMA Docket No.: B–7434).	City of Flagstaff (00–09–745P).	Nov. 7, 2002, Nov. 14, 2002, *Arizona Daily Sun*.	The Honorable Joseph C. Donaldson, Mayor, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001.	Jan. 4, 2001	040020
Arizona: Coconino (FEMA Docket No.: B–7436).	Unincorporated Areas (02–09–1336P).	Feb. 13, 2003, Feb. 20, 2003, *Arizona Daily Sun*.	The Honorable Deb Hill, Chairperson, Coconino County, Board of Supervisors, 219 East Cherry Avenue, Flagstaff, Arizona 86001.	Jan. 30, 2003	040019
Arizona: Maricopa (FEMA Docket No.: B–7436).	City of Avondale (03–09–0278P).	Feb. 20, 2003, Feb. 27, 2003, Arizona Republic.	The Honorable Ronald J. Drake, Mayor, City of Avondale, 525 North Central Avenue, Avondale, Arizona 85323.	Feb. 12, 2003	040038
Arizona: Maricopa (FEMA Docket No.: B–7434).	Town of Cave Creek (00–09–495P).	Nov. 7, 2002, Nov. 14, 2002, *Arizona Business Gazette*.	The Honorable Vincent Francia, Mayor, Town of Cave Creek, 37622 North, Cave Creek Road, Arizona 85331.	Feb. 15, 2001	040129
Arizona: Maricopa (FEMA Docket No.: B–7434).	City of Chandler (01–09–006P).	Nov. 7, 2002, Nov. 14, 2002, *Arizona Republic*.	The Honorable Boyd Dunn, Mayor, City of Chandler, 55 North Arizona Place, Suite 3014, Chandler, Arizona 85225.	Dec. 13, 2000, ...	040040
Arizona: Maricopa (FEMA Docket No.: B–7436).	City of El Mirage (01–09–017P).	Feb. 6, 2003, Feb. 13, 2003, *Arizona Republic*.	The Honorable Robert Robles, Mayor, City of El Mirage, P.O. Box 26, El Mirage, Arizona 85335.	May 15, 2003	040041
Arizona: Maricopa (FEMA Docket No.: B–7436).	City of Glendale (01–09–017P).	Feb. 6, 2003, Feb. 13, 2003, *Arizona Republic*.	The Honorable Elaine M. Scruggs, Mayor, City of Glendale, 5850 West Glendale Avenue, Glendale, Arizona 85301.	May 15, 2003	040045
Arizona: Maricopa (FEMA Docket No.: B–7434).	City of Goodyear (00–09–975P).	Nov. 6, 2002, Nov. 13, 2002, *West Valley View*.	The Honorable Bill Arnold, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, Arizona 85338.	Dec. 19, 2000	040046
Arizona: Maricopa (FEMA Docket No.: B–7436).	City of Mesa (02–09–950P).	Jan. 9, 2003, Jan. 16, 2003, *Arizona Business Gazette*.	The Honorable Keno Hawker, Mayor, City of Mesa, P.O. Box 1466, Mesa, Arizona 85211–1466.	Apr. 17, 2003	040048
Arizona: Maricopa (FEMA Docket No.: B–7436).	City of Peoria (01–09–017P).	Feb. 6, 2003, Feb. 13, 2003, *Arizona Republic*.	The Honorable John C. Keegan, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, Arizona 85345.	May 15, 2003	040050
Arizona: Maricopa (FEMA Docket No.: B–7434).	City of Phoenix (00–09–495P).	Nov. 7, 2002, Nov. 14, 2002, *Arizona Business Gazette*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington, 11th Floor, Phoenix, Arizona 85003–1611.	Feb. 15, 2001	040051
Arizona: Maricopa (FEMA Docket No.: B–7436).	City of Phoenix (02–09–934P).	Apr. 10, 2003, Apr. 17, 2003, *Arizona Business Gazette*.	The Honorable Skip Rimzsa, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	Jul. 17, 2003	040051

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arizona: Maricopa (FEMA Docket No.: B–7436).	City of Tolleson (02–09–943P).	Apr. 10, 2003, Apr. 17, 2003, *Arizona Business Gazette*.	The Honorable Adolfo F. Gamez, Mayor, City of Tolleson, 9555 West Van Buren Street, Tolleson, Arizona 85353.	Jul. 17, 2003	040055
Arizona: Maricopa (FEMA Docket No.: B–7434).	Unincorporated Areas (00–09–495P).	Nov. 7, 2002, Nov. 14, 2002, *Arizona Business Gazette*.	The Honorable Don Stapley, Chairman, Maricopa County, Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	Feb. 15, 2001	040037
Arizona: Maricopa (FEMA Docket No.: B–7436).	Unincorporated Areas (01–09–017P).	Feb. 6, 2003, Feb. 13, 2003, *Arizona Republic*.	The Honorable Don Stapley, Chairman, Maricopa County, Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	May 15, 2003	040037
Arizona: Pima (FEMA Docket No.: B–7436).	City of Tucson (02–09–1252P).	Feb. 27, 2003, Mar. 6, 2003, *Daily Territorial*.	The Honorable Robert Walkup, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	Feb. 12, 2003	040076
California: Kern (FEMA Docket No.: B–7436).	City of Arvin (02–09–866P).	Apr. 17, 2003, Apr. 24, 2003, *Bakersfield Californian*.	The Honorable Juan Olivares, Mayor, City of Arvin, 200 Campus Drive, Arvin, California 93203.	Jul. 17, 2003	060076
California: Kern (FEMA Docket No.: B–7436).	City of Bakersfield (02–09–866P).	Apr. 17, 2003, Apr. 24, 2003, *Bakersfield Californian*.	The Honorable Harvey L. Hall, Mayor, City of Bakersfield, City Hall, 1501 Truxtun Avenue, Bakersfield, California 93301.	Jul. 17, 2003	060077
California: Kern (FEMA Docket No.: B–7436).	Unincorporated Areas (02–09–866P).	Apr. 17, 2003, Apr. 24, 2003, *Bakersfield Californian*.	The Honorable Pete H. Parra, Chair, Kern County, Board of Supervisors, 1115 Truxtun Avenue, Fifth Floor, Bakersfield, California 93301–4617.	Jul. 17, 2003	060075
California: Los Angeles (FEMA Docket No.: B–7436).	City of Los Angeles (02–09–0035P).	Feb. 13, 2003, Feb. 20, 2003, *Los Angeles Times*.	The Honorable James Hahn, Mayor, City of Los Angeles, City Hall, 200 North Spring Street, Room 303, Los Angeles, California 90012.	May 15, 2003	060137
California: Monterey (FEMA Docket No.: B–7434).	Unincorporated Areas (02–09–869P).	Dec. 12, 2002, Dec. 19, 2002, *Californian*.	The Honorable Dave Potter, Chairman, Monterey County, Board of Supervisors, P.O. Box 180, Salinas, California 93902.	Mar. 20, 2003	060195
California: Orange (FEMA Docket No.: B–7436).	City of Orange (02–09–910P).	Feb. 13, 2003, Feb. 20, 2003, *Orange County Register*.	The Honorable Mark A. Murphy, Mayor, City of Orange, 300 East Chapman Avenue, Orange, California 92866.	May 22, 2003	060228
California: Orange (FEMA Docket No.: B–7436).	City of Buena Park (02–09–1323P) (03–09–1164P).	Mar. 12, 2003, Mar. 19, 2003, *Buena Park Independent*.	The Honorable Steve Berry, Mayor, City of Buena Park, 6650 Beach Boulevard, Buena Park, California 90622–5009.	Jun. 18, 2003	060215
California: Placer (FEMA Docket No.: B–7436).	City of Roseville (02–09–1258P).	Feb. 19, 2003, Feb. 26, 2003, *Roseville Press-Tribune*.	The Honorable Rocky Rockholm, Mayor, City of Roseville, 311 Vernon Street, Roseville, California 95679.	May 28, 2003	060243
California; Riverside (FEMA Docket No.: B–7436).	City of Riverside (01–09–652P).	Mar. 20, 2003, Mar. 27, 2003, *Press Enterprise*.	The Honorable Ronald O. Loveridge, Mayor, City of Riverside, 3900 Main Street, Riverside, California 92522.	Jun. 26, 2003	060260
California: Sacramento (FEMA Docket No.: B–7434).	Unincorporated Areas (02–09–1169P).	Oct. 17, 2002, Oct. 24, 2003, *Daily Recorder*.	The Honorable Roger Niello, Chairman, Sacramento County, Board of Supervisors, 700 H Street, Room 2450, Sacramento, California 95814.	Jan. 23, 2003	060262
California: San Diego (FEMA Docket No.: B–7436).	City of Escondido (02–09–714P).	Jan. 16, 2003, Jan. 23, 2003, *North County Times*.	The Honorable Lori Holt Pfeiler, Mayor, City of Escondido, 201 North Broadway, Escondido, California 92025.	Apr. 24, 2003	060290
California: San Diego (FEMA Docket No.: B–7436).	City of Poway (03–9–0026P).	Feb. 20, 2003, Feb. 27, 2003, *Poway News Chieftain*.	The Honorable Mickey Cafagna, Mayor, City of Poway, P.O. Box 789, Poway, California 92074–0789.	May 29, 2003	060702
California: San Diego (FEMA Docket No: B–7436).	City of San Diego (02–09–1505P).	Jan. 23, 2003, Jan. 30, 2003, *San Diego Union Tribune*.	The Honorable Richard M. Murphy, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, California 92101.	May 1, 2003	060295
California: San Diego (FEMA Docket No.: B–7436).	Unincorporated Areas (02–09–714P).	Jan. 16, 2003, Jan. 23, 2003, *North County Times*.	The Honorable Ron Roberts, Chairman, San Diego County, Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	Apr. 24, 2003	060284

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
California: San Diego (FEMA Docket No.: B–7436).	Unincorporated Areas (03–09–0198P).	Apr. 17, 2003, Apr. 24, 2003, *San Diego Union-Tribune*.	The Honorable Greg Cox, Chairman, San Diego County, Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	Jul. 24, 2003	060284
California: Santa Barbara (FEMA Docket No. B–7436).	Unincorporated Areas (03–09–0009P).	Apr. 17, 2003, Apr. 24, 2003, *Santa Barbara News-Press*.	The Honorable Naomi Schwartz, Chair, Santa Barbara County, Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.	Mar. 18, 2003	060331
California: Santa Clara (FEMA Docket No.: B–7434).	Town of Los Gatos (01–09–159P).	Oct. 16, 2002, Oct. 23, 2002, *Los Gatos Weekly-Times*.	Mr. John Curtis, P.E., Director of Parks and Public Works, Town of Los Gatos, P.O. Box 949, Los Gatos, California 95031.	Jan. 22, 2003	060343
California: Santa Clara (FEMA Docket No.: B–7429).	City of San Jose (02–09–1264P).	Apr. 25, 2002, May 2, 2002, *San Jose Mercury News*.	The Honorable Ron Gonzales, Mayor, City of San Jose, 801 North First Street, Room 600, San Jose, California 95110.	Oct. 21, 2002	060349
California: Santa Clara (FEMA Docket No.: B–7429).	Unincorporated Areas (02–09–1264P).	Apr. 25, 2002, May 2, 2002, *San Jose Mercury News*.	The Honorable Donald F. Gage, Chairman, Santa Clara County, Board of Supervisors, East Wing, 10th Floor, 70 West Hedding Street, San Jose, California 95110.	Oct. 21, 2002	060337
California: Santa Clara (FEMA Docket No.: B–7434).	Unincorporated Areas (01–09–159P).	Oct. 16, 2002, Oct. 23, 2002, *Los Gatos Weekly-Times*.	The Honorable Donald F. Gage, Chairman, Santa Clara County, Board of Supervisors, East Wing, 10th Floor, 70 West Hedding Street, San Jose, California 95110.	Jan. 22, 2003	060337
California: Shasta (FEMA Docket No.: B–7346).	City of Anderson (03–09–0704X).	Mar. 18, 2003, Mar. 25, 2003, *The Valley Post*.	The Honorable Norma R. Comnick, Mayor, City of Anderson, City Hall, 1887 Howard Street, Anderson, California 96007.	Jun. 25, 2003	060359
California: Ventura (FEMA Docket No.: B–7434).	City of Camarillo (02–09–583P).	Oct. 24, 2002, Oct. 31, 2002, *Ventura County Star*.	The Honorable Jan McDonald, Mayor, City of Camarillo, 601 Carmen Drive, Camarillo, California 93010.	Jan. 30, 2003	065020
California: Ventura (FEMA Docket No.: B–7434).	City of Simi Valley (03–09–0051X).	Nov. 14, 2002, Nov. 24, 2002, *Ventura County Star*.	The Honorable William Davis, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, California 93063.	Nov. 6, 2002	060421
California: Ventura (FEMA Docket No.: B–7436).	City of Simi Valley (02–09–1500P).	Jan. 23, 2003, Jan. 30, 2003, *Ventura County Star*.	The Honorable William Davis, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, California 93063.	Dec. 19, 2002	060421
California: Ventura (FEMA Docket No.: B–7434).	Unincorporated Areas (02–09–1213P).	Oct. 31, 2002, Nov. 7, 2002, *Fillmore Gazette*.	The Honorable Frank Schillo, Chairman, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, California 93009.	Feb. 6, 2003	060413
California: Ventura (FEMA Docket No.: B–7436).	Unincorporated Areas (03–09–0007P).	Mar. 27, 2003, Apr. 3, 2003, *Ventura County Star*.	The Honorable Judy Mikels, Chair, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, California 93009.	Mar. 5, 2003	060413
California: Yolo (FEMA Docket No.: B–7436).	City of Woodland (02–09–1469P).	Apr. 2, 2003, Apr. 9, 2003, *Davis Enterprise*.	The Honorable David Flory, Mayor, City of Woodland, City Hall, 300 First Street, Woodland, California 95695.	Jul. 9, 2003	060426
California: Yolo (FEMA Docket No.: B–7436).	Unincorporated Areas (02–09–1469P).	Apr. 2, 2003, Apr. 9, 2003, *Davis Enterprise*.	The Honorable Lynnel Pollock, Chair, Yolo County Board of Supervisors, 625 Court Street, Room 204, Woodland, California 95695.	Jul. 9, 2003	060423
Colorado: Adams (FEMA Docket No.: B–7434).	City of Commerce City (02–08–283P).	Oct. 24, 2002, Oct. 31, 2002, *Denver Post*.	The Honorable E.E. ''Casey'' Hayes, Mayor, City of Commerce City, 5291 East 60th Avenue, Commerce, City, Colorado 80022.	Jan. 30, 2003	080006
Colorado: Adams (FEMA Docket No.: B–7434).	City of Thornton (02–08–283P).	Oct. 24, 2002, Oct. 31, 2002, *Denver Post*.	The Honorable Noel Busck, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	Jan. 30, 2003	080007
Colorado: Adams (FEMA Docket No.: B–7434).	Unincorporated Areas (02–08–283P).	Oct. 24, 2002, Oct. 31, 2002, *Denver Post*.	The Honorable Martin Flaum, Chairman, Adams County, Board of Commissioners, 450 South Fourth Avenue, Brighton, Colorado 80601.	Jan. 30, 2003	080001

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Colorado: Adams (FEMA Docket No.: B–7436).	City of Westminster (02–08–211P).	Feb. 20, 2003, Feb. 27, 2003, *Westminster Window*.	The Honorable Ed Moss, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, Colorado 80031.	May 29, 2003	080008
Colorado: Adams (FEMA Docket No.: B–7436).	Unincorporated Areas (02–08–211P).	Feb. 20, 2003, Feb. 27, 2003, *Westminster Window*.	The Honorable Ted Strickland, Chairman, Adams County, Board of Commissioners, 450 South Fourth Avenue, Brighton, Colorado 80601.	May 29, 2003	080001
Colorado: Adams, Boulder, Jefferson, Weld (FEMA Docket No.: B–7434).	City of Broomfield (02–08–156P).	Nov., 20, 2002, Nov. 27, 2002, *Denver Post*.	The Honorable Karen Stuart, Mayor, City and County of Broomfield, One Des Combes Drive, Broomfield, Colorado 80020.	Feb. 26, 2003	085073
Colorado: Boulder (FEMA Docket No.: B–7434).	City of Boulder (02–08–340P).	Nov. 21, 2002, Nov. 28, 2002, *Denver Post*.	The Honorable William R. Toor, Mayor, City of Boulder, 1777 Broadway, Boulder, Colorado 80306.	Feb. 27, 2003	080024
Colorado: Douglas (FEMA Docket No.: B–7434).	Town of Parker (02–08–171P).	Oct. 10, 2002, Oct. 17, 2002, *Denver Post*.	The Honorable Gary Lasater, Mayor, Town of Parker, 20120 East Main Street, Parker, Colorado 80138.	Jan. 16, 2003	080310
Colorado: Douglas (FEMA Docket No.: B–7436).	Town of Parker (02–08–491P).	Mar. 19, 2003, Mar. 26, 2003, *Douglas County News-Press*.	The Honorable Gary Lasater, Mayor, Town of Parker, 20120 East Main Street, Parker, Colorado 80138–7334.	Jun. 25, 2003	080310
Colorado: Douglas (FEMA Docket No.: B–7434).	Unincorporated Areas (02–08–171P).	Oct. 10, 2002, Oct. 17, 2002, *Denver Post*.	The Honorable James R. Sullivan, Chairman, Douglas County, Board of Commissioners, 100 Third Street, Castle Rock, Colorado 80104.	Jan. 16, 2003	080049
Colorado: Douglas (FEMA Docket No.: B–7436).	Unincorporated Areas (01–08–358P).	Jan. 16, 2003, Jan. 23, 2003, *Denver Post*.	The Honorable Melanie Worley, Chair, Douglas County, Board of Commissioners, 100 Third Street, Castle Rock, Colorado 80104.	Apr. 24, 2003	080049
Colorado: Douglas (FEMA Docket No.: B–7436).	Unincorporated Areas (02–08–491P).	Mar. 19, 2003, Mar. 26, 2003, *Douglas County News-Press*.	The Honorable Melanie Worley, Chair, Douglas County, Board of Commissioners, 100 Third Street, Castle Rock, Colorado 80104.	Jun. 25, 2003, ...	080049
Colorado: El Paso (FEMA Docket No.: B–7431).	City of Colorado Springs (02–08–325P).	Sept. 5, 2002, Oct. 24, 2002, *The Gazette*.	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901–1575.	Aug. 21, 2002	890060
Colorado: El Paso (FEMA Docket No.: B–7436).	City of Colorado Springs (02–08–490P).	Mar. 26, 2003, Apr. 2, 2003, *The Gazette*.	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901.	July 2, 2003	080060
Colorado: Fremont (FEMA Docket No.: B–7436).	Unincorporated Areas (02–08–269P).	Dec. 11, 2002, Dec. 18, 2002, *Canon City Daily Record*.	The Honorable Joe Rall, Chair, Fremont County Board of Commissioners, 615 Macon Avenue, Canon City, Colorado 81212.	Mar. 19, 2003	080067
Colorado: Garfield (FEMA Docket No.: B–7434).	City of Rifle (02–08–123P).	Dec. 26, 2002, Jan. 2, 2003, *Citizen Telegram*.	The Honorable Keith Lambert, Mayor, City of Rifle, 202 Railroad Avenue, Rifle, Colorado 81650.	Dec. 4, 2002	085078
Colorado: Jefferson (FEMA Docket No.: B–7436).	City of Lakewood (03–08–0090P).	Feb. 27, 2003, Mar. 6, 2003, *Lakewood Sentinel*.	The Honorable Steve Burkholder, Mayor, City of Lakewood, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, Colorado 80226–3127.	Jun. 5, 2003	085075
Colorado: Jefferson (FEMA Docket No.: B–7431).	Unincorporated Areas (02–08–368P).	Sept. 25, 2002, Nov. 27, 2002, *Canyon Courier, Columbine Courier*.	The Honorable Richard M. Sheehan, Chairman, Jefferson County, Board of Commissioners, 100 Jefferson County Parkway, Golden, Colorado 80419.	Dec. 25, 2002	080087
Colorado: Larimer (FEMA Docket No.: B–7434).	City of Fort Collins (01–08–092P).	Nov. 7, 2002, Nov. 14, 2002, *Fort Collins Coloradoan*.	The Honorable Ray Martinez, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, Colorado 80522–0580.	May 30, 2001	080102
Colorado: Larimer (FEMA Docket No.: B–7436).	City of Fort Collins (02–08–499P).	Feb. 13, 2003, Feb. 20, 2003, *Fort Collins Coloradoan*.	The Honorable Ray Martinez, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, Colorado 80522–0580.	May 22, 2003	080102
Hawaii: Hawaii (FEMA Docket No.: B–7434).	Hawaii County (99–09–680P).	Nov. 7, 2002, Nov. 14, 2002, *Hawaii Tribune Herald*.	The Honorable Harry Kim, Mayor, Hawaii County, 25 Aupuni Street, Hilo, Hawaii 96720.	Aug. 15, 2000	155166

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Hawaii: Hawaii (FEMA Docket No.: B–7436).	Hawaii County (02–09–1456P).	Jan. 16, 2003, Jan. 23, 2003, *Hawaii Tribune Herald*.	The Honorable Harry Kim, Mayor, Hawaii County, 25 Aupuni Street, Hilo, Hawaii 96720.	Apr. 24, 2003	155166
Hawaii: Honolulu (FEMA Docket No.: B–7434).	City and County of Honolulu (00–09–244P).	Nov. 7, 2002, Nov. 14, 2002, *Honolulu Star Bulletin*.	The Honorable Jeremy Harris, Mayor, City and County of Honolulu, 530 South King Street, Honolulu, Hawaii 96813.	Feb. 1, 2001	150001
Hawaii: Maui (FEMA Docket No.: B–7436).	Maui County (03–09–0144P).	Jan. 30, 2003, Feb. 6, 2003, *Maui News*.	The Honorable James H. Apana, Mayor, County of Maui, 200 South High Street, Wailuku, Hawaii 96793.	May 8, 2003	150003
Idaho: Ada (FEMA Docket No.: B–7436).	Unincorporated Areas (03–10–0228P).	Mar. 13, 2003, Mar. 20, 2003, *Idaho Statesman*.	The Honorable Judy M. Peavey-Derr, Chairman, Ada County, Board of Commissioners, 200 West Front Street, Boise, Idaho 83702.	Feb. 20, 2003	160002
Idaho: Blaine (FEMA Docket No.: B–7436).	Unincorporated Areas (02–10–700P).	Feb. 12, 2003, Feb. 19, 2003, *Wood River Journal*.	The Honorable Mary Ann Mix, Chair, Blaine County, Board of Commissioners, 206 First Avenue South, Suite 300, Hailey, Idaho 83333.	May 21, 2003	165167
Idaho: Bonner (FEMA Docket No.: B–7436).	City of Clark Fork (02–10–714X).	Jan. 3, 2003, Jan. 10, 2003, *Bonner County Daily Bee*.	The Honorable Tom Shields, Mayor, City of Clark Fork, P.O. Box 10, Clark Fork, Idaho 83811.	Dec. 18, 2002	160132
Idaho: Bonner (FEMA Docket No.: B–7436).	Unincorporated Areas (02–10–714X).	Jan. 3, 2003, Jan. 10, 2003, *Bonner County Daily Bee*.	The Honorable Jerry Clemons, Chair, Bonner County, Board of Commissioners, 215 South First Avenue, Sandpoint, Idaho 83864.	Dec. 18, 2002	160206
Idaho: Canyon (FEMA Docket No.: B–7436).	City of Middleton (02–10–391P).	Mar. 27, 2003, Apr. 3, 2003, *Idaho Press Tribune*.	The Honorable Frank McKeever, Mayor, City of Middleton, City Hall, P.O. Box 176, Middleton, Idaho 83644.	Jul. 3, 2003	160037
Idaho: Canyon (FEMA Docket No.: B–7436).	Unincorporated Areas (02–10–391P).	Mar. 27, 2003, Apr. 3, 2003, *Idaho Press Tribune*.	The Honorable Todd Lakey, Chairman, Canyon County Board of Commissioners, 1115 Albany Street, Caldwell, Idaho 83605–3522.	Jul. 3, 2003	160208
Montana: Gallatin (FEMA Docket No.: B–7434).	City of Bozeman (00–08–367P).	Nov. 7, 2002, Nov. 14, 2002, *Bozeman Daily Chronicle*.	The Honorable Steven Kirchhoff, Mayor, City of Bozeman, P.O. Box 1230, Bozeman, Montana 59771–1230.	Dec. 20, 2000	300028
Texas: Bexar (FEMA Docket No.: B–7434).	City of San Antonio (00–06–862P).	Nov. 7, 2002, Nov. 14, 2002, *San Antonio Express News*.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	Apr. 2, 2001	480045
Texas: Collin (FEMA Docket No.: B–7431).	City of Frisco (00–06–1133P).	Feb. 1, 2002, Feb. 8, 2002, *Frisco Enterprise*.	The Honorable Kathi Seei, Mayor, City of Frisco, City Hall, P.O. Box 1100, Frisco, Texas 75034.	Nov. 2, 2000	480134
Texas: Dallas (FEMA Docket No.: B–7431).	City of Dallas (99–06–1120P).	Jan. 31, 2002, Feb. 7, 2002, *Dallas Morning News*.	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Dallas, Texas 75201.	Nov. 13, 2000	480171
Texas: Denton (FEMA Docket No.: B–7436).	City of Lewisville (00–06–841P).	Feb. 21, 2003, Feb. 26, 2003, *Denton County Morning News*.	The Honorable Gene Carey, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, Texas 75029–9002.	Aug. 2, 2001	480195
Utah: Washington (FEMA Docket No.: B–7434).	City of St. George (02–08–101P).	Dec. 19, 2002, Dec. 26, 2002, *Spectrum*.	The Honorable Daniel McArthur, Mayor, City of St. George, 175 East 200 North, St. George, Utah 84770.	Mar. 27, 2003	490177
Washington: King (FEMA Docket No.: B–7436).	Unincorporated Areas (02–10–452P).	Feb. 13, 2003, Feb. 20, 2003, *Seattle Times*.	The Honorable Ron Sims, King County Executive, King County Courthouse, 516 Third Avenue, Suite 400, Seattle, Washington 98104.	May 22, 2003	530071
Washington: Spokane (FEMA Docket No.: B–7434).	Unincorporated Areas (02–10–614P).	Dec. 17, 2002, Dec. 24, 2002, *Spokesman-Review*.	Ms. Francine Boxer, Chief Executive Officer, Spokane County, 1116 West Broadway Avenue, Spokane, Washington 99260.	Mar. 25, 2003	530174

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

Dated: August 8, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–21003 Filed 8–15–03; 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, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2903.

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

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

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

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

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

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

Regulatory Flexibility Act. The 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 BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This 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 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 amended to read as follows:

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	
Contra Costa County, (FEMA Docket No.# B–7416)	
Murderer's Creek:	
At Pleasant Hill Road	*145
Approximately 210 feet upstream of Withers Avenue	*148
Maps are available for inspection at the Public Works Department, 255 Glacier Drive, Martinez, California.	
Pleasant Hill (City), Contra Costa County, (FEMA Docket No.# B–7416)	
East Fork Grayson Lane:	
At Gregory Creek	*51
Just upstream of Oak Park Boulevard	*72
Murderer's Creek:	
At confluence with East Fork Grayson Creek	*51
Approximately 3,000 feet upstream of Frontage Road	*135
Maps are available for inspection at the Public Works Department, 100 Gregory Lane, Pleasant Hill, California.	
Missouri	
Gasconade County, (FEMA Docket No.# B–7425)	
Frene Creek:	
At the confluence with the Missouri River	*518
Approximately 3,400 feet upstream of High School Driveway	*5530
Maps are available for inspection at City Hall, 207 Schiller Street, Hermann, Missouri.	
Hermann (City), Gasconade County, (FEMA Docket No.# B–7425)	
Frene Creek:	
Approximately 2,100 feet upstream of High School Driveway	*527
Approximately 3,500 feet upstream of High School Driveway	*531
Maps are available for inspection at 119 East First Street, Hermann Missouri.	

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

Dated: August 8, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–21004 Filed 8–15–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 00–185, FCC 03–15]

Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 Ghz Band, the L-Bank, and the l.6/2.4 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rules; announcement of effective date.

SUMMARY: This document announces the effective date of certain sections of the rule published on June 5, 2003. Those rules permitted certain mobile-satellite service (MSS) providers in the 2 GHz Band, the L-Bank, and the 1.6/2.4 GHz Banks to integrate ancillary terrestrial components (ATCs) into their MSS networks.

DATES: Sections 25.149, 25.252, 25.253, and 25.254, published at 68 FR 33640, June 5, 2003, was approved by the Office of Management and Budget (OMB) on June 6, 2003, and are effective August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Peggy Reitzel, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1460.

SUPPLEMENTARY INFORMATION: On February 3, 2003, the Commission released a Report and Order adopting a number of amendments to Parts 2 and 25 of the Commission's rules, as well as changes to Commission policy (FCC 03–15), a summary of which was published in the **Federal Register**. *See* 68 FR 33640 (June 5, 2003). We stated that the rules were effective on July 7, 2003, except for those sections containing new information collection requirements, which required approval by the Office of Management and Budget (OMB). The information collection requirements were approved by OMB on June 6, 2003. *See* OMB No. 3060–0994. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules.

List of Subjects in 47 CFR Part 25

Radio, Satellites, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–20788 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–2572; MB Docket No. 03–11, RM–10701]

Radio Broadcasting Services; Kernville, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Linda A. Davidson, allots Channel 289A to Kernville, California, as the community's second local aural transmission service. *See* 68 FR 27960, May 22, 2003. Channel 289A can be allotted to Kernville, in compliance with the Commission's minimum distance separation requirements, provided there is a site restriction of 5.6 kilometers (3.5 miles) northeast of the community. The reference coordinates for Channel 289A at Kernville are 35–46–29 North Latitude and 118–22–09 West Longitude. A filing window for Channel 289A at Kernville, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective September 15, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 03–111, adopted July 30, 2003, and released August 1, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 289A at Kernville.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–20946 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–2573; MB Docket No. 02–316, RM–10542]

Radio Broadcasting Services; Cedar Bluff, VA and Gary, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Monterey Licenses, LLC, reallots Channel 299C3 from Cedar Bluff, Virginia to Gary, West Virginia, and modifies Station WHQX(FM)'s license accordingly. *See* 67 FR 64853, October 22, 2002. Channel 299C3 can be allotted to Gary in compliance with the Commission's minimum distance separation requirements at petitioner's presently authorized site. The coordinates for Channel 299C3 at Gary are 37–08–00 North Latitude and 81–35–43 West Longitude.

DATE: Effective September 15, 2003.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–316, adopted July 30, 2003, and released August 1, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the

Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 54, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Cedar Bluff, Channel 299C3.

■ 3. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Gary, Channel 299C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–20947 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[Docket No. OST–2001–10287 and OST–2001–13361]

RIN 2105–AD03 and 2105–AD17

Relocation of Standard Time Zone Boundary in the State of North Dakota: Morton County and Sioux County

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; technical correction and withdrawal of final rule.

SUMMARY: In a final rule published on July 22, 2003, the Department of Transportation (DOT) moved all of Morton County, North Dakota to the central time zone. Prior to this action, the eastern portion of the county was in central time and the western portion was in mountain time. Paragraph 2 of the amendatory language of the final rule inadvertently included references to the incorrect section number and title. This final rule corrects that error.

In addition, in a final rule published the same day, DOT changed the time zone boundary for Sioux County, ND. Each rule only changed the boundary description for the respective county under consideration. Because both rules are effective on the same date and involve the same paragraph of regulatory text, the inconsistency will cause confusion. Therefore, this rule corrects the regulatory text to reflect the simultaneous changes made in both counties.

DATES: The correction of the final rule is effective 2 a.m. MDT Sunday, October 26, 2003.

The withdrawal of the July 22, 2003, final rule on Morton County is made as of August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9315 or by e-mail at *joanne.petrie@ost.dot.gov.*

SUPPLEMENTARY INFORMATION: On July 22, 2003, the Department of Transportation issued a final rule changing the time zone boundary in Morton County, ND. Paragraph 2 of the amendatory language (68 FR 43339, column one) inadvertently referenced the incorrect section number. It stated that paragraph (a) of section 71.5 was being amended. The correct reference is section 71.7. In addition, the title of the section was incorrect. The correct title of section 71.7 is ''Boundary line between central and mountain zones.''

In addition, in a final rule published the same day, DOT changed the time zone boundary for Sioux County, ND. Each rule only changed the boundary description for the respective county under consideration. Because both rules are effective on the same date and involve the same paragraph of regulatory text, the inconsistency will cause confusion in the Code of Federal Regulations. Therefore, this rule corrects the regulatory text to reflect the simultaneous changes made in both counties. This action is not intended to impact the substance of the underlying decision. Effective October 26, 2003, all of Sioux County east of State Highway 31 will be in the central time zone. Similarly, effective October 26, 2003, all of Morton County will be moved into the central time zone.

Withdrawal of the final rule concerning Morton County published on July 22, 2003 (68 FR 43336) is made as of August 18, 2003.

■ 49 CFR part 71 is amended as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read:

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; Pub. L. 106–564, 15 U.S.C. 263, 114 Stat. 2811; 49 CFR 159(a), unless otherwise noted.

■ 2. In § 71.7, paragraph (a) is corrected to read as follows:

§ 71.7 Boundary line between central and mountain zones.

(a) *Montana-North Dakota.* Beginning at the junction of the Montana-North Dakota boundary with the boundary of the United States and Canada southerly along the Montana-North Dakota boundary to the Missouri River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Missouri and Yellowstone Rivers; thence southerly and easterly along the middle of the Yellowstone River to the north boundary of T. 150 N., R. 104 W.; thence east to the northwest corner of T. 150 N., R. 102 W.; thence south to the southwest corner of T. 149 N., R. 102 W.; thence east to the northwest corner of T. 148 N., R. 102 W.; thence south to the northwest corner of 147 N., R. 102 W.; thence east to the southwest corner of T. 148 N., R. 101 W., thence south to the middle of the Little Missouri; thence easterly and northerly along the middle of that river to the midpoint of its confluence with the Missouri River; thence southerly and easterly along the middle of the Missouri River to the midpoint of its confluence with the northern land boundary of Oliver County; thence west along the northern county line to the northwest boundary; thence south along the western county line to the southwest boundary; thence west along the northern county boundary of Morton County; thence south along the western county boundary of Morton County and then east and south along the southern county boundary to the intersection with the boundary with Sioux County;

thence west and south along the northern boundary of Sioux County to the center of State Highway 31; thence south along the center of State Highway 31 to the state border with South Dakota; thence east along the southern boundary of Sioux County to the middle of the Missouri River.

* * * * *

Issued in Washington, DC on August 11, 2003.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 03–21105 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030812199–3199–01; I.D. 111401B]

RIN 0648–AR46

Fisheries of the Exclusive Economic Zone off Alaska; Revisions to Observer Program in the North Pacific Groundfish Fisheries; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends a December 30, 2002, final rule that implemented changes to regulations governing the American Fisheries Act (AFA). This final rule included revisions to the North Pacific Groundfish Observer Program (Observer Program). The action is necessary to correct an error in replacement text that occurred in the final rule.

DATES: Effective August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: A final rule implementing changes to regulations governing the Observer Program was published in the **Federal Register** on December 30, 2002 (67 FR 79692). Some of these changes related to the establishment of new observer requirements. The final rule inadvertently omitted two paragraphs from the list of paragraphs where ''CDQ observer'' was to be replaced by ''level 2 observer.'' These paragraphs are amended by this action.

Need for Correction

Two paragraphs were inadvertently omitted from the list of paragraphs where ''CDQ observer'' was to be replaced by ''level 2 observer.'' Paragraphs 679.50(c)(4)(v)(A) and (B) are amended by removing the reference to ''CDQ observer'' and adding in its place ''level 2 observer''.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator of Fisheries, NOAA (AA), finds good cause to waive prior notice and opportunity for public comment otherwise required by the section. NOAA finds that prior notice and comment are unnecessary as this rule has a non-substantive effect on the public. This rule corrects an error in a recent amendment to regulations and is necessary for consistency throughout the regulations. The rest of the regulations use the term ''level 2 observer'' instead of ''CDQ observer.'' This rule makes this word change in two places that were inadvertently omitted from the previous amendment. The public is unaffected by the correction. NOAA finds that because of the technical, non-substantive nature of the correction, there is no particular public interest in this final rule for which there is need for prior notice and comment.

The AA also finds good cause to waive the 30–day delay in the effective date of this action for same reasons stated above.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 12, 2003.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set forth in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub, L, 106–554.

■ 2. In § 679.50, paragraphs 679.50(c)(4)(v)(A) and (B) are correctly revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2007.

* * * * *

(c) * * *

(4) * * *

(v) * * *

(A) *Option 1.* If the vessel operator selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, then at least one level 2 observer as described at paragraph (j)(1)(v)(D) of this section must be aboard the vessel.

(B) *Option 2.* If the vessel operator selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting, then at least one lead level 2 observer as described at paragraph (j)(1)(v)(E) of this section must be aboard the vessel.

* * * * *

[FR Doc. 03–21047 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 159
Monday, August 18, 2003

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1124 and 1135

[Docket No. AO–368–A30, AO–380–A18; DA–01–08]

Milk in the Pacific Northwest and Western Marketing Areas; Tentative Decision on Proposed Amendments and Opportunity To File Written Exceptions to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This tentative decision adopts, on an interim final and emergency basis, provisions that amend certain features of the Pacific Northwest and Western milk marketing orders. Specifically, the ability to simultaneously pool the same milk on either the Pacific Northwest or the Western orders and on a State-operated order that has marketwide pooling is eliminated. For the Western order, the *Pool plant* provision is amended to establish a ''net shipments'' provision for milk deliveries to distributing plants and the *Producer milk* provision is amended to establish a net diversions provision. Additionally, the *Proprietary bulk tank handler* provision of the Western order is removed. Public comments on these actions, the other pooling and related provisions not adopted, and the marketwide service payment provision not adopted by this tentative decision are requested. This decision requires determination of whether producers approve the issuance of the amended orders on an interim basis.

DATES: Comments are due on or before October 17, 2003.

ADDRESSES: Comments (6 copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Room 1083–STOP 9200, 1400 Independence Avenue, SW., Washington, DC 20250–9200.

FOR FURTHER INFORMATION CONTACT: Gino M. Tosi, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, Room 2968–STOP 0231, 1400 Independence Avenue, SW., Washington, DC 20250–0231, (202) 690–1366, e-mail address: *gino.tosi@usda.gov.*

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

These amendments to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Department's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees.

For the purposes of determining which dairy farms are ''small businesses,'' the $750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

In the Western Federal milk order, 551 of the 791 dairy producers (farmers), or almost 70 percent, whose milk was pooled under the order at the time of the hearing, April 2002, would meet the definition of small businesses. On the processing side, 5 of the 12 milk plants associated with the Western milk order during April 2002 would qualify as ''small businesses,'' constituting about 42 percent of the total.

In the Pacific Northwest Federal milk order, 805 of the 1,164 dairy producers (farmers), or about 69 percent, whose milk was pooled under the Pacific Northwest Federal milk order at the time of the hearing, April 2002, would meet the definition of small businesses. On the processing side, 9 of the 20 milk plants associated with the Pacific Northwest milk order during April 2002, would qualify as ''small businesses,'' constituting about 45 percent of the total.

Based on these criteria, more than 69 percent of the producers in both orders would be considered as small businesses. The adoption of the proposed pooling standards serves to revise established criteria that determine those producers, producer milk, and plants that have a reasonable association with, and are consistently serving the fluid needs of the Pacific Northwest and Western milk marketing area and are not associated with other marketwide pools concerning the same milk. Criteria for pooling are established

on the basis of performance levels that are considered adequate to meet the Class I fluid needs and, by doing so, determine those that are eligible to share in the revenue that arises from the classified pricing of milk. Criteria for pooling are established without regard to the size of any dairy industry organization or entity. The established criteria are applied in an identical fashion to both large and small businesses and do not have any different economic impact on small entities as opposed to large entities. Therefore, the proposed amendments will not have a significant economic impact on a substantial number of small entities.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that these proposed amendments would have no impact on reporting, recordkeeping, or other compliance requirements because they would remain identical to the current requirements. No new forms are proposed and no additional reporting requirements would be necessary.

This notice does not require additional information collection that requires clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Prior documents in this proceeding:

Notice of Hearing: Issued February 26, 2002; published March 4, 2002 (67 FR 9622).

Correction of Notice of Hearing: Issued March 14, 2002; published March 19, 2002 (67 FR 12488).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this tentative final decision with respect to proposed amendments to the tentative marketing agreements and the orders regulating the handling of milk in the Pacific Northwest and Western marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Room 1083–STOP 9200, 1400 Independence Avenue, SW, Washington, DC 20250–9200, by the October 17, 2003. Six (6) copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. While no evidence was received that specifically addressed these issues, some of the evidence encompassed entities of various sizes.

The proposed amendments set forth below are based on the record of a public hearing held at Salt Lake City, Utah, on April 16–19, 2002, pursuant to a notice of hearing issued February 26, 2002, and published March 4, 2002, (67 FR 9622) and a correction of notice of hearing issued March 14, 2002, and published March 19, 2002 (67 FR 12488).

The material issues on the record of the hearing relate to:

1. Simultaneous pooling of milk on a Federal and a State-operated milk order.

2. Pooling Standards of the Western Order.

a. Supply plant performance standards.

b. Cooperative supply plant performance standards.

c. Standards for Producer milk.

d. Proprietary bulk tank handler provision.

e. Establishing pooling standards for ''State-units.''

3. Marketwide Service Payments.

4. Pooling provision clarifications.

5. Determining whether emergency marketing conditions exist that would warrant the omission of a recommended decision and the opportunity to file written exceptions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Simultaneous Pooling on a Federal and State-Operated Milk Order

Two proposals, published in the hearing notice as Proposals 1 and 10, seeking to exclude the same milk from being simultaneously pooled on the Pacific Northwest and Western orders and any State-operated order which provides for marketwide pooling, should be adopted immediately. The practice of pooling milk on a Federal order and simultaneously pooling the same milk on a State-operated order has come to be referred to as ''double dipping''. The Pacific Northwest and Western orders do not currently prohibit milk to be simultaneously pooled on the order and a State-operated order that provides for marketwide pooling. Proposals 1 and 10 were offered by Northwest Dairy Association (NDA), a cooperative association that markets the milk of their dairy-farmer members in the Pacific Northwest and Western milk marketing areas.

A witness appearing on behalf of NDA, testified that double dipping not only creates disorderly conditions in California, it also results in competitive inequities in Federal milk order areas. The NDA witness explained that once minimal pool qualification standards are met, milk pooled via this manner rarely is delivered to a Federal order marketing area.

The NDA witness provided evidence indicating that in 2001, over $4.5 million was diverted from the Western Order pool and the producer blend price was reduced by an average of 10 cents per hundredweight (cwt) through double dipping. The witness was of the opinion that milk pooled through double dipping provided no service or delivery of milk from California yet the California milk receives the benefit of the Western order's blend price.

The NDA witness testified that there was no evidence of double dipping presently occurring on the Pacific Northwest order. However, the witness was of the opinion that the Pacific Northwest order would be targeted. The witness drew this conclusion on the premise that as soon as the double dipping loophole is closed in other orders, California milk will be pooled on orders that do not yet prohibit the practice.

Two witnesses, one representing Gossner Foods, Inc. (Gossner), an ultra high temperature (UHT) fluid milk processor located in Utah, and the second, Utah Dairymen's Association (UDA), a cooperative located in Utah, also provided testimony in support of Proposal 10. The witnesses concurred that by eliminating double dipping,

producers pooled on the order would benefit financially and enhance their ability to stay in business.

A witness representing River Valley Milk Producers Inc. (River Valley), a dairy farmer cooperative located in Southwestern Idaho, testified in support of eliminating double dipping. The witness was of the opinion that producers from outside of the marketing area should meet pooling standards by demonstrating actual performance in supplying the Western marketing area as a condition for pooling their milk and receiving the blend price. However, the witness stressed that producer milk which already participates in a State marketwide pool should be prohibited from participating in a Federal order pool.

The Commissioner of the Utah Department of Agriculture and Food testified in support of eliminating double dipping on the Western milk order. The witness testified that increasing volumes of California milk are diluting the Class I utilization of the market and lowering the blend price paid to producers. The witness found this to be patently unfair and stressed that double dipping lowers the income of Utah dairy farmers.

Three dairy farmers from Utah testified in support of prohibiting double dipping. These witnesses stated that double dipping on the Western order has had a significant negative impact on their pay prices. They maintained that it is unfair and wrong for dairy farmers to have their milk price reduced as a result of California milk being pooled on the order. One dairy farmer witness also added that the loose pooling provisions of the Western Order have resulted in unwarranted financial gain to those who do not supply the Class I milk market of the Western marketing area. This witness indicated that this contributed to the financial ruin of a quarter of Western Order dairy farmers over the past four years.

There was no direct opposition to eliminating or preventing double dipping. However, a witness testifying on behalf of the Dairy Farmers of America (DFA), a dairy farmer cooperative that markets the milk of their members in both orders and in most other Federal milk orders offered their own proposals. These proposals were published in the hearing notice as Proposals 2, 3, 4, 5, 6, 7, 8, and 9, and are offered, said the witness, to address broader pooling standards and concerns rather than focusing on the single pooling issue of double dipping. These proposals are discussed later in this decision.

For nearly 70 years, the Federal government has operated the milk marketing order program. The law authorizing the use of milk marketing orders, the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended, provides authority for milk marketing orders as an instrument which dairy farmers may voluntarily opt to use to achieve objectives consistent with the AMAA and that are in the public interest. An objective of the AMAA, as it relates to milk, was the stabilization of market conditions in the dairy industry. The declaration of the AMAA is specific: ''the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce.''

The AMAA provides authority for employing several methods to achieve more stable marketing conditions. Among these is classified pricing which entails pricing milk according to its use by charging processors differing prices on the basis of form and use. In addition, the AMAA provides for specifying when and how processors are to account for and make payments to dairy farmers. Plus, the AMAA requires that milk prices established by an order be uniform to all processors and that the price charged can be adjusted by, among other things, the location at which milk is delivered by producers (Section 608c(5)).

As these features and constraints provided for in the AMAA were employed in establishing prices under Federal milk orders, some important market stabilization goals were achieved. The most often recognized goal was the near elimination of ruinous pricing practices of handlers competing with each other on the basis of the price they paid dairy farmers for milk and in price concessions made by dairy farmers. The need for processors to compete with each other on the price they paid for milk was significantly reduced because all processors are charged the same minimum amount for milk, and processors had assurance that their competitors were paying the same value-adjusted minimum price.

The AMAA also authorizes the establishment of uniform prices to producers as a method to achieve stable marketing conditions. Marketwide pooling has been adopted in all Federal orders because of its superior features of providing equity to both processors and producers, thereby helping to prevent disorderly marketing conditions. A marketwide pool, using the mechanism of a producer settlement fund to equalize on the use-value of milk pooled on an order, meets that objective of the AMAA of ensuring uniform prices to producers supplying a market.

The California State milk order program clearly has objectives similar to those of the AMAA. Exhibits presented at the hearing indicate that the California State order program has a long history in the development and evolution of a classified pricing plan and in providing equity in pricing to handlers and producers. Important as classified pricing has been in setting minimum prices, the issue of equitable returns to producers for milk could not be satisfied by only the use of a classified pricing plan. Some California plants had higher Class I fluid milk use than did others and some plants processed little or no fluid milk products. As with the Federal order system, producers who were fortunate enough to be located nearer Class I processors had been receiving a much larger return for their milk than producers shipping to plants with lower Class I use or to plants whose main business was the manufacturing of dairy products. Over time, disparate price differences grew between producers located in the same production area of the state which, in turn, led to disorderly marketing conditions and practices. These included producers who became increasingly willing to make price concessions with handlers by accepting lower prices and in paying higher charges for services such as hauling. Contracts between producers and handlers were the norm, but the contracts were not long-term (rarely more than a single month) and could not provide a stable marketing relationship from which the dairy farmers could plan their operations.

In 1967, the California State legislature passed and enacted the Gonsalves Milk Pooling Act. The law provided the authority for the California Agriculture Secretary to develop and implement a pooling plan, which was implemented in 1968. The California pooling plan provides for the operation of a State-wide pool for all milk that is produced in the State and delivered to California pool plants. It uses an equalization fund that equalizes prices among all handlers and sets minimum prices to be paid to all producers pooled on the State order. While the pooling plan details vary somewhat from pooling details under the Federal order program, the California pooling

objectives are basically identical to those of the Federal program.

It is clear from this review of the Federal and California State programs that the orderly marketing of milk is intended in both systems. Both plans provide a stable marketing relationship between handlers and dairy farmers and both serve the public interest. It would be incorrect to conclude that the Federal and California milk order programs have differing purposes when the means, mechanisms, and goals are so nearly identical. In fact, the Federal order program has precedent in recognizing that the California State milk order program has marketwide pooling. Under milk order provisions in effect prior to milk order reform, and under § 1000.76(c), a provision currently applicable to all Federal milk marketing orders, the Department has consistently recognized California as a State government program with marketwide pooling.

Since the 1960's the Federal milk order program recognized the harm and disorder that resulted to both producers and handlers when the same milk of a producer was simultaneously pooled on more than one Federal order. When this occurs, producers do not receive uniform minimum prices, and handlers receive unfair competitive advantages. The need to prevent ''double pooling'' became critically important as distribution areas expanded and orders merged. The issue of California milk, already pooled under its State-operated program and able to simultaneously be pooled under a Federal order, has essentially the same undesirable outcomes that Federal orders once experienced and subsequently corrected. It is clear that the Pacific Northwest and Western orders should be amended to prevent the ability of milk to be pooled on more than one order when both orders employ marketwide pooling.

There are other State-operated milk order programs that provide for marketwide pooling. For example, New York operates a milk order program for the western region of that State. A key feature explaining why this State-operated program has operated for years alongside the Federal milk order program is the exclusion of milk from the State pool when the same milk is already pooled under a Federal order. Because of the impossibility of the same milk being pooled simultaneously, the Federal order program has had no reason to specifically address double dipping or double pooling issues, the disorderly marketing conditions that arise from such practice, or the primacy of one regulatory program over another. The other states with marketwide pooling similarly do not double-pool Federal order milk.

The record testimony and evidence show milk pooled on the Western order originates from locations distant from the area. However, this decision acknowledges that with the advent of the economic incentives for California milk to be pooled on the Western order and, at the same time, enjoy the benefits of being pooled under California's State-operated milk order program, more milk has come to be pooled on the order that has no legitimate association with the integral milk supplies of Western order pool plants. The association at present has been made possible only through what some market participants describe as a regulatory loophole. The record also supports concluding that the Pacific Northwest order should be similarly amended to preclude the ability to simultaneously pool the same milk on the order if the same milk is already pooled on a State-operated order that provides for marketwide pooling.

California milk should only be eligible for pooling on the Pacific Northwest and Western orders when it is not pooled on the California State order and when it meets the Pacific Northwest and Western order pooling standards. It is the ability of milk from California to ''double dip'' that is a source of disorderly marketing conditions for the Western order and should be preempted in the case of the Pacific Northwest order.

Proposals 1 and 10 offer a reasonable solution for prohibiting the same milk to draw pool funds from Federal and State marketwide pools simultaneously. It is consistent with the current prohibition against the same milk pooling simultaneously in more than one Federal order pool. Adoption of Proposals 1 and 10 will not establish any barrier to the pooling of milk from any source that actually demonstrates performance in supplying the Pacific Northwest and Western market's Class I needs. In this regard, adoption of Proposals 1 and 10 specifically prohibit the practice of double dipping which two other proposals (Proposals 2 and 9), discussed below, do not.

The amendatory language provided below has been modified by the Department but nevertheless accomplishes the intent of Proposals 1 and 10. As published in the hearing notice, amendatory language was proposed for the *Producer* definition of the Pacific Northwest and Western milk orders. The amendments adopted in this tentative decision to prohibit double dipping has been made in each respective order's *Producer milk* definition. This change is made because milk marketing orders do not regulate producers in their capacity as producers. Additionally, the amendatory language adopted is consistent with that adopted in other milk orders where the practice of double dipping has been eliminated.

2. Pooling Standards of the Western Order

Testimony summaries regarding the pooling standards for the Western order are provided individually. The discussion of all pooling standards and the decision's findings and conclusions regarding pooling standards is presented immediately after testimony summary for d below.

a. Supply Plant Performance Standards

An inadequacy of the supply plant pooling provision contributes to the inappropriate pooling of milk and the unwarranted erosion of the blend price received by those producers who are regularly and consistently serving the fluid demands of the Western marketing area. Proposal 3, offered by DFA, seeking adoption of a ''net shipments'' standard for supply plant deliveries to the order's distributing plants for the purpose of meeting the shipping standard, should be adopted immediately. A net shipments standard would exclude from a supply plant's qualifying shipments any transfer or diversion of bulk fluid milk products made by the distributing plant receiving the shipment.

The Western marketing order currently provides automatic pool plant status during the 6-month period of March through August for supply plants provided they were pool plants during each of the immediately preceding months of September through February. The current order does not provide for a net shipments method in determining if the supply plant performance standard has been met.

A witness appearing on behalf of DFA testified that a net shipments provision for pooling purposes would better ensure that milk physically received and retained at a distributing plant for Class I use would be a superior method of determining if the supply plant performance standard is being met. According to the witness, this feature would deter a supply plant from physically shipping milk into the facilities of a distributing plant only to have the milk reloaded and moved to another plant for uses other than Class I. The witness added that a net shipments provision also would ensure that milk being pooled was

demonstrating a service in meeting the Class I needs of the market.

A witness appearing on behalf of NDA testified in opposition to adopting Proposal 3. The witness was of the opinion that the net shipments provision for supply plants was designed and intended to reduce the amount of milk that could be pooled on the Western order. The witness explained that no other Federal milk order contained a net shipments provision because pool supply plants and other reserve plants provide a benefit by balancing the needs of the fluid market and pooling milk in a way that prevent disorderly marketing conditions from arising.

A witness representing Gossner opposed the establishment of a net shipment provision for the Western order. Additionally a witness representing Glanbia Foods, Inc. (Glanbia), and another witness representing Davisco Foods International (Davisco), offered testimony in opposition to the adoption of a net shipments provision for the Western order. Glanbia is a handler that operates two cheese plants located in the Western marketing area, and Davisco is a handler that operates proprietary cheese plants located in Idaho and in Minnesota. The Glanbia witness testified that a net shipments provision would preclude many producers located in Idaho from being pooled on the Western order when their milk is not needed for fluid use even though it is available and stands ready and able to supply the Class I needs of the marketing area. The Gossner witness indicated that market alternatives for pooling milk within the Western region were already very limited and the adoption of this proposal could entirely eliminate them. The Davisco witness testified that a net shipments provision would limit their ability to pool their producers and viewed this as essentially erecting barriers to market entry on the Western order.

A witness representing KDK, Inc. (KDK), a fluid processing plant located in Draper, Utah, also presented testimony in opposition to adopting a net shipments provision. The witness indicated that their plant transfers milk to exempt plants and, on occasion, to producer-handlers. The witness was of the opinion that adoption of a net shipments provision would result in milk currently associated with their plant no longer being able to be pooled because their supplier would be unable to meet the shipping standard.

b. Cooperative Supply Plant Performance Standards

A proposal, published in the hearing notice as Proposal 4, seeking to increase the cooperative supply plant pooling standard should not be adopted. Proposal 4, offered by DFA, seeks to increase the cooperative supply plant performance standard that specifies the percentage of cooperative producer milk that needs to be physically received by a distributing plant of the Western order to 50 percent in order for the cooperative supply plant to qualify as a pool plant of the order.

The Western order currently provides for a cooperative association that operates a plant as a unique type of supply plant. The cooperative association's plant must be located within the marketing area and at least 35 percent of the milk which the cooperative association handles is physically received at a Western order distributing plant during the month or the immediately preceding 12-month period.

In offering Proposal 4, the DFA witness testified that while no plants currently utilize the cooperative supply plant provision, some cooperatively-owned manufacturing plants may seek such status if DFA's other proposal to decrease the diversion limit standard, (discussed later in this decision) is adopted. The witness maintained that increasing the cooperative supply plant shipping standard is intended to ensure that plants opting for this type of pool plant status would be demonstrating adequate performance in supplying the Class I needs of the Western marketing area.

Opposition to Proposal 4 was offered by witnesses representing Glanbia, Gossner, and Davisco. The Glanbia witness was of the opinion that the proposal was designed to prevent market entry and participation by dairy farmers who may be attracted to the Western market. The Gossner witness stated that producers should have as many options as possible in marketing their milk because it brings about increased competition and may also bring better milk prices. The Davisco witness asserted that Proposal 4 would only decrease opportunities for Idaho milk from becoming pooled on the Western order. This would, the witness said, pressure Idaho producers to find other means by which to pool their milk on the Western order.

The NDA witness also testified in opposition to Proposal 4. The witness was of the opinion that increasing the cooperative supply plant performance standard would create competitive inequities and may even create new disorderly marketing conditions. The witness indicated that to be able to utilize the cooperative supply plant provision, Class I sales would need to be increased and to accomplish this, a cooperative would likely need to engage in price cutting tactics to win sales from competitors. The witness predicted that an outcome such as this would be disorderly.

c. Standards for Producer Milk

A proposal, published in the hearing notice as Proposal 6, seeking to lower the diversion limit standard for producer milk should not be adopted. This proposal was offered by DFA. Specifically, Proposal 6 seeks to reduce the diversion limit for producer milk to nonpool plants to 70 percent of total receipts. The Western order currently provides a diversion limit standard for producer milk of 90 percent of total milk receipts. The DFA witness was of the opinion that the pooling of milk which does not demonstrate a service in supplying the needs of the Class I market is inconsistent with Federal order policy. Returns to producers who regularly supply the Class I market are unnecessarily reduced when milk is pooled that cannot demonstrate such service, the witness asserted.

The DFA witness also testified that milk which does not actually supply the Class I needs of the market, but shares in the revenue generated from fluid milk sales, is an indicator of faulty pooling provisions. The witness asserted that if the current pooling standards are not amended, local dairy farmers who are actually supplying the local Class I market will continue to receive lower returns.

The DFA witness testified that the Western order's current diversion limit standard of 90 percent is inadequate because it allows milk to be pooled on the order than can not demonstrate a regular and consistent service in meeting the needs of the fluid market. According to the witness, it is appropriate to lower the limit on the amount of producer milk that pool plants can divert to nonpool plants.

The Commissioner of the Utah Department of Agriculture and Food testified in support of Proposal 6. The witness reasoned that by lowering the diversion limit standard, prices paid to Utah dairy farmers would increase. Lowering the diversion limit standard would increase the relative Class I use of milk pooled on the order, explained the witness. It would also allow Utah family dairy farms to compete fairly, and be compensated more equitably for the service they provide, the witness

said. If the diversion limit standard is not lowered, cautioned the witness, dairy farms in Utah will continue to be endangered and result in harming Utah's rural communities.

A witness representing UDA, testified in support of Proposal 6. This witness stated that reducing the diversion limit standard from 90 to 70 percent would result in similar diversion limit standards in effect in other Federal milk orders such as the Arizona-Las Vegas, Mideast, Appalachian, Central and Southwest orders. The UDA witness added that lowering the diversion limit standard also would remedy some of the financial damage borne by Utah and Idaho milk producers resulting from the reform of Federal milk marketing orders in 2000.

A witness representing River Valley also testified in support of lowering the Western order's diversion limit standard. The witness, however, supported lowering the standard to 80 percent, not the 70 percent proposed by DFA. The witness expressed concern about the consequences of easily pooling large volumes of milk on the Western order. The witness provided evidence showing that the amount of milk pooled on a daily basis increased by more than 5.5 million pounds between October and November 2001—a 58 percent increase. The witness hypothesized that an 80 percent diversion limit would continue to allow handlers the ability to efficiently divert milk to nonpool plants while also providing a smoother regulatory transition for regulated handlers.

Seven Utah dairy farmers provided testimony supporting the lowering of the diversion limit standard. The witnesses were of the opinion that the pooling standards adopted as part of Federal milk order reform created loopholes that have caused some handlers and producers to be financially rewarded without the need to demonstrate actual shipments of milk for the Class I market. As a result, the witnesses said, dairy farmers have observed that their blend price is lower than it otherwise would be. These witness asserted that dairy farmers should not be permitted to collect money from their fellow dairy farmers if they do not demonstrate performance in supplying the fluid needs of the market.

The witness representing Gossner testified in opposition to Proposal 6. The witness was of the opinion that great disruption would occur to their business operation if the diversion limit standard is lowered. The witness explained that a large portion of their Class I sales are contracts with governmental agencies. The contracts they hold are bid annually, the witness said, and the loss of a contract would make it very difficult for them to meet the proposed pooling standards.

The Gossner witness also asserted that DFA holds a virtual monopoly in supplying the Class I market in Utah and Southern Idaho. In this regard, the witness advocated the view that dairy farmers are best served when they have more than one buyer for their milk and that Gossner is trying to provide producers an alternative Class I market for their milk. The witness stated that producers would benefit by maintaining a 90 percent diversion limit standard because it leaves Gossner with the flexibility to add producers for pooling as needed and maintain the flexibility to react to changing marketing conditions.

A witness representing Glanbia also testified against lowering the diversion limit standard. The witness was of the opinion that the proposed change was an unwarranted attempt to disassociate much of Idaho's historically pooled milk supply because it is not needed for fluid use. If diversion limits are decreased, the witness said, a large portion of their producer milk would not be pooled. If a producer wished to remain pooled, the witness explained, they would be forced to join a cooperative whose supply is large enough to meet the proposed standards. If adopted, the witness concluded, the new diversion limit standard would inhibit a producer's ability to choose how to market their milk and remain pooled on the order.

The witness representing Magic Valley Milk Producer Association, Inc. (Magic Valley), testified in opposition to Proposal 6. Magic Valley is a milk marketing cooperative located in Idaho that has producer members in both Idaho and Utah. The witness was of the opinion that adoption of Proposal 6 would severely hinder Magic Valley's ability to pool the milk of their producers thereby placing them at a competitive disadvantage in their ability to market the milk of their members at competitive prices. For example, the witness explained, with the 90 percent diversion limit standard in effect from January 2001 to March 2002, the monthly volume of milk pooled on the order averaged 396,900,356 pounds. If a 70 percent standard had been in effect over that same time period, the witness contrasted, the monthly average volume of milk that could have been pooled would have been 285,410,615 pounds. The witness concluded from this example that on average, about 111,489,741 pounds would no longer have been able to be pooled.

The witness representing Davisco, also testified in opposition to lowering the diversion limit standard. The witness was of the opinion that disorderly marketing in the Western market already exists and attributed the disorder to the pooling standards adopted as part of Federal milk order reform. Since January 1, 2000, the witness emphasized, Davisco had been unable to pool two-thirds of their producers. The witness concluded that their inability to pool all of their producers would be remedied by raising the diversion limit standard to 95 percent or by suspending the diversion limit standard altogether.

The witness representing NDA also testified in opposition to lowering the diversion standard. Not only would there be less milk that could be pooled, the witness noted, but the current Western order already pools far less than the total milk production that occurs within the marketing area. The witness concluded from this observation that lowering the diversion limit standard would only make it more difficult for producers to pool their milk on the order. The witness was of the opinion this would give rise to disorderly marketing conditions in a number of forms including the use of ''price incentives'' serving to undercut the published Class I price, the potential expansion or creation of new bottling operations which could be used to ''raid'' the retail market, the ''paper-pooling'' of milk on other Federal milk orders, and being charged a fee for the benefit of being pooled on the order.

The NDA witness estimated that if Proposal 6 is adopted, approximately 150 million pounds, or about 38 percent of the monthly average volume of milk pooled in 2001 would no longer be pooled. This occurrence, according to the witness, would bring an immediate shift in the balance of economic power within the Western order. This result, together with the forms of disorderly conditions previously described cited above, the witness asserted, also would result in political reaction, Congressional review, and waning political support for the Federal milk order program.

The NDA witness asserted that the practice of buying and selling pooling rights is an important indicator and cause of disorderly marketing conditions. The witness explained that this is because a person selling pooling rights can gain competitive advantages not available to others thus compounding disorderly marketing conditions. Finally, the witness concluded, no justification exists for lowering the diversion limit standard of

the Western order, adding that perhaps the standard should be raised.

A proposal, published in the hearing notice as Proposal 7, seeking to establish a ''netting'' provision for diverted milk from a pool distributing plant by the amount of any transfers out of that plant, should be adopted immediately. This proposal was offered by DFA. The Western order does not currently contain this provision as a feature of how the order defines producer milk.

The DFA witness testified that by adopting a ''netting'' provision, a distributing plant's ability to divert milk would be based on the actual amount of milk retained by the distributing plant. According to the witness, this feature would deter a plant from physically receiving milk into the facility only to have milk reloaded and moved to another plant for uses other than Class I. The witness added that the provision would ensure that milk being pooled was demonstrating a service in meeting the Class I needs of the market.

Many witnesses testified in opposition to Proposal 7. A witness representing NDA was of the opinion that if adopted, the provision would reduce the ability to pool milk by limiting the ability of a plant to maximize the use of its pooling base. Witnesses representing Davisco, Glanbia, Gossner and Magic Valley all concurred that adoption of DFA's proposal would have a dramatic negative impact on their ability to pool the milk of their producers. The witnesses were all of the opinion that Proposal 7's only real purpose was to prevent many Idaho producers from having their milk pooled on the Western order.

d. Proprietary Bulk Tank Handler Provision

A proposal, published in the hearing notice as Proposal 5, seeking to eliminate the *Proprietary bulk tank handler* (PBTH) provision of the Western order, should be adopted immediately. The proposal was offered by DFA. The PBTH provision is a pooling provision and feature of only the Western order. It provides for a person who operates a plant that produces Class II, III, and IV milk products, and who operates a truck that picks up the milk of a producer, to be a regulated handler of the order.

According to the DFA witness, PBTH's are able to pool large volumes of milk that do not actually service the Class I market. The witness testified that PBTH milk is received into a plant to qualify it for pooling and is subsequently pumped back out of the plant to be delivered to a manufacturing plant. The witness emphasized that milk pooled through a PBTH in this manner never services the Class I market.

The DFA witness testified, however, that their major concern with the PBTH provision was that some entities are purchasing milk below the order's minimum prices from PBTH's. The witness asserted that this results in inequity among handlers in the minimum prices they pay for milk and undermines the key pricing principle of the Federal milk order system of uniform prices to handlers. The witness testified that in removing the PBTH provision handlers currently using the provision could be able to pool their milk by utilizing other provisions that are contained in the order.

In brief, DFA asserted that the record evidence clearly demonstrated that large volumes of milk are pooled on the order through the PBTH provision, but demonstrates only minimal service to the Class I market. DFA noted that under the current diversion limit standard, a PBTH can pool 20 loads of milk for every one load used in actual Class I production. More importantly, DFA stressed that this one load of milk is sold at less than minimum class prices.

The DFA brief maintained that pooling milk is not an entitlement. Instead, milk must demonstrate actual performance to the Class I market. DFA concluded that because the order contains other provisions that are more performance based through which a PBTH could qualify for pooling, the PBTH provision should be removed.

A witness representing River Valley testified in support of eliminating the PBTH provision. The witness viewed the provision as a loophole in the Western order's pooling provisions that allows manufacturing plants to qualify milk for pooling on the order that does not demonstrate any reasonable service in supplying the Class I needs of the market. The witness asserted that PBTH's have used financial incentives to solicit producers located near distributing plants to become patrons and then use those nearby producers to qualify all the milk of a PBTH. Because the producers were already delivering milk to the distributing plant, the witness emphasized, no actual new milk is being made available to service fluid demand, but the amount of milk that can be pooled is significantly increased. The witness noted that this milk is being used in Class II, III, and IV uses. The witness characterized pooling milk in this way as fostering disorderly marketing conditions which justifies removing the PBTH provision from the Western order.

A witness representing NDA testified in opposition to Proposal 5. The NDA witness said that the PBTH provision is provided as a more efficient way for some handlers to operate their plants. The witness is of the opinion that the goal of Proposal 5 is to make it more difficult for some producers to be pooled. According to the witness, accomplishing this end should not be a reason for its removal from the order. If there are problems with the PBTH provision it should be modified, not eliminated, the witness stressed.

A brief filed by NDA also expressed opposition to removing the PBTH provision. NDA agreed that all pool plants should be accountable to the pool at minimum class prices and that different wholesale prices for milk between handlers can create disorderly marketing conditions. Nevertheless, NDA also held there would be no guarantee that uniformity of pricing between handlers would actually be achieved by eliminating the provision. NDA stressed that it is a handler's need to pool milk that is the catalyst for selling milk below class prices.

Eliminating the PBTH provision would, maintained NDA, agitate the problem and cause handlers to seek other ways to pool milk. Rather than its elimination, the NDA witness advocated modification of the provision to address its shortcomings.

Two witnesses representing Glanbia and Davisco also testified in opposition to Proposal 5. These witnesses stated that if adopted, the proposal would create market disorder and discontent for some Idaho producers who would no longer be able to pool their milk on the Western order. The Davisco witness asserted that Federal order reform adopted performance standards that could not accommodate pooling the milk supply of the consolidated Western order, even though this milk supply stood willing and available to serve the Class I needs of the market. Under the current standards, Davisco is able to pool less than half of the producers they did prior to milk order reform, the witness said. The Davisco witness estimated that if the PBTH provision is removed, they would be able to pool less than 5 percent of their milk supply.

The Davisco witness emphasized that their milk stands ready to supply the Class I market, but is has never been needed for the fluid market. In this regard, the witness was of the opinion that producers should not be penalized by not having the ability to pool their milk simply because it is not needed for Class I use.

The Glanbia witness was of the opinion that eliminating the PBTH provision would inhibit the ability and freedom of dairy farmer to choose how to market their milk. The witness thought this may also force producers to join a cooperative to assure that their milk would be pooled on the order, an outcome consistent with lowering the diversion limit standard. A brief submitted by Glanbia and Davisco continued stressing their opposition to Proposal 5. Their brief maintained, among other things, that elimination of the PBTH provision would prevent many producers, who stand willing to service the Class I market, from being able to pool their milk on the Western order.

A witness representing Stoker Wholesale, Inc., a pool distributing plant located in Idaho, testified against eliminating the PBTH provision. The witness indicated that if adopted, the proposal would jeopardize their ability to remain competitive with other processors in the marketing area. The Stoker witness indicated that their main concern was that the removal of the PBTH provision would allow a dominant cooperative to gain too much market power. In this regard, the witness foreshadowed that Stoker might be forced to purchase milk from a dominant cooperative and along with paying the order's minimum class prices, would also be forced to pay other charges dictated by the cooperative. Such an outcome would be devastating to Stoker and hinder their ability to compete in the Western marketing area, concluded the witness.

Two Idaho dairy farmers testified in opposition to Proposal 5. The farmers were of the opinion that if the PBTH provision was eliminated, farmers would have to pool their milk through a cooperative. One witness testified that this would eliminate the number of outlets available to farmer's to market their milk and put the market's milk supply in the hands of fewer entities. The witness also noted that while the fewer entities controlling the milk supply could raise their prices, it would also result in higher retail costs to consumers. The witnesses were also of the opinion that the low milk prices they are facing arise from complicated economic and political factors and are not caused by dairy farmers having the opportunity to pool their own milk.

A proposal, published in the hearing notice as Proposal 11, seeking to reach a balance of assuring handler equity while retaining the PBTH provision should not be adopted. Proposal 11 was offered by Meadow Gold Dairies (Meadow Gold). Meadow Gold is a dairy processor regulated in the Western order. Because this decision eliminates the PBTH provision from the Western order, amending the provision is rendered moot.

Two companion proposals to Proposal 11, also offered by Meadow Gold, published in the hearing notice as Proposals 12 and 13, should not be adopted. Proposals 12 and 13 offer language for the Western order to address payment obligation changes which would arise from modifying the PBTH provision. Because the PBTH provision is eliminated from the order, the need for these proposals are also rendered moot.

Similarly, another proposal, published in the hearing notice as Proposal 14, offered by the Market Administrator to provide additional clarity to the PBTH definition, is not adopted. The need to provide additional clarity to a provision that is being eliminated is also rendered moot.

A witness representing Meadow Gold viewed Proposals 11 and 13 as a remedy to the alternative to removing the PBTH provision and Proposal 12 as ensuring that pool plants must pay PBTH's at least the order's minimum class prices. According to the Meadow Gold witness, their major concern with the PBTH provision is that plants buying from a PBTH are not required to pay minimum class prices. Proposals 11 and 13 would ensure that milk is considered producer milk at the pool plant and that the pool plant is responsible for accounting to the pool and paying producers, the witness said. This would give the MA authority to verify payment to the Producer-Settlement Fund and to the producers supplying the PBTH, the witness said.

The witness maintained that the AMAA provides authority for the Secretary to ensure that handlers are paying minimum class prices for their milk purchases. The witness indicated that Meadow Gold would not object to removing the PBTH provision if the Department determined that the problems arising from the provision would be more appropriately remedied by its removal from the order.

A witness representing NDA, testified that while NDA understood the current problems regarding the PBTH provision, they had yet to determine their position on Proposals 11 through 13. However, in their post-hearing brief, NDA expressed support of Proposals 11, 12 and 13. They acknowledged that Proposals 11 and 13 are presented as a ''package'' and viewed Proposal 12 as an alternative. NDA asserted that they had no preference as to which approach should be adopted and expressed confidence in the Department for rendering its decision on how best to address the PBTH issue.

A witness representing DFA testified that while they support evidence presented in support of Proposals 11 through 13, DFA believed that removal of the PBTH provision was a more appropriate course of action.

Witnesses representing Glanbia, Davisco, and Stoker testified in opposition to Proposal 11. The witnesses stated that they could not support this proposal because it would essentially regulate transactions between one type of handler to another while leaving other similar transactions such as bulk transfers, packaged milk transfers, custom bottling, tolling arrangements, and pooling fees untouched. The Davisco witness was also of the opinion that the AMAA does not grant the Secretary authority to regulate handler-to-handler transactions. The Stoker witness opposed Proposals 11 through 13 for the same reasons given in opposing the removal of the PBTH provision.

The witness representing NDA supported Proposal 14, stating that they were of the opinion that the Market Administrator's proposal would assist in the interpretation and administration of the order.

The pooling standards of all milk marketing orders are intended to ensure that an adequate supply of milk is supplied to meet the Class I needs of the market and to provide the criteria for identifying the milk of those producers who are reasonably associated with the market as a condition for receiving the order's blend price. The pooling standards of the Western order are represented in the *Pool Plant, Producer, Proprietary bulk tank handler,* and the *Producer milk* provisions of the order. Taken as a whole, these provisions are intended to ensure that an adequate supply of milk is available to meet the Class I needs of the market. In addition, these provisions provide the criteria for identifying those producers whose milk is reasonably associated with the market and thereby share in the marketwide distribution of proceeds arising primarily from Class I sales. Pooling standards of the Western order are based on performance, specifying standards that, if met, qualify a producer, the milk of a producer, or a plant to share in the benefits arising from the classified pricing of milk.

Pooling standards that are performance-based provide the only viable method for determining those eligible to share in the marketwide pool. This is because it is the added value from the Class I use of milk that adds

additional income, and it is reasonable to expect that only those producers who consistently bear the costs of supplying the market's fluid needs should be the ones to share in the distribution of pool proceeds. Pooling standards are also needed to identify the milk of those producers who are providing service in meeting the Class I needs of the market. If the pooling provisions do not reasonably accomplish these aims, the proceeds that accrue to the marketwide pool from fluid milk sales are not properly shared with the appropriate producers. The result is the unwarranted lowering of returns to those producers who actually incur the costs of servicing and supplying the fluid needs of the market.

Similarly, pooling standards should provide for those features and accommodations that reflect the needs of proprietary handlers and cooperatives in providing the market with milk and dairy products. When the use of a pooling feature provision deviates from its intended purpose and gives rise to conditions that are contrary to the objectives of classified pricing and marketwide pooling as articulated in the AMAA, it is appropriate to re-examine the need for continuing to provide that feature as a necessary component of the pooling standards of the order. Because one of the objectives of classified pricing is assuring that all similarly situated handlers regulated under the terms of an order pay the same classified use-value, a pooling feature which can be used to circumvent this objective should be considered as inappropriate for inclusion in the order.

The Final Decision of Federal milk order reform examined and discussed the various pooling standards and features of the pre-reform orders for their applicability in new and larger consolidated milk orders. The pooling standards and features adopted for the consolidated Western Order were designed to reflect and retain those standards and features of the pre-reform orders so as not to cause a significant change and indeed to provide for the continued pooling of milk that had been pooled by those market participants.

The record provides evidence to conclude that a performance standard feature for supply plants is needed. Additionally, a pooling feature in defining producer milk is also needed to provide an appropriate limit on diversions by distributing plants. The lack of adequately defining how much milk a distributing plant can divert contributes to the inappropriate pooling of milk through the diversion process. Some milk being pooled under the Western order by diversion is not an integral reserve supply of the distributing plant diverting milk. These inadequacies inappropriately pool milk classified at lower-valued uses which results in an unwarranted lowering of the blend price to those producers whose milk actually and consistently demonstrates service to the Class I needs of the market.

The record evidence also provides strong evidence that the *Proprietary bulk tank handler* provision gives rise to disorderly marketing conditions because the order is unable to establish minimum prices that are uniform among regulated handlers, a requirement of Section 608c(5) of the AMAA. The record clearly reveals that this pooling feature of the Western order is being used as a means to pool milk that could not otherwise be pooled and allows for the sale of milk for Class I use below the order's minimum Class I price. While this provision served its purpose in the pre-reform Southwest Idaho-Eastern Oregon order, its purpose and usefulness for the larger consolidated Western order can no longer be justified.

This decision finds that some milk is being pooled and is receiving the benefit of the Western order blend price without demonstrating actual and consistent service in supplying the Class I needs of the Western milk marketing area. This finding is attributed to inadequate pooling standard features needed to accomplish the intent of the order's pooling standards. The pooling provisions provided in the Final Decision of milk order reform established pooling standards and pooling features that envisioned the needs of the market participants resulting from the consolidation of two pre-reform milk marketing areas to form the current Western milk marketing area. The milk order reform Final Decision did not intend or envision that the pooling standards and pooling features adopted would result in the sharing of Class I revenues with those persons, or the milk of those persons, who would not be demonstrating a measure of service in fulfilling the Class I needs of the Western marketing area. The reform Final Decision also did not envision that the PBTH provision, carried into the consolidated Western order from the pre-reform Southwestern Idaho-Eastern Oregon order, would enable entities to sell milk for fluid use below the order's minimum Class I price.

The Final Decision of milk order reform examined and discussed various pooling standards and features of the pre-reform orders for applicability in a new, larger consolidated milk order. The pooling standards and features adopted for the Western order were intended to reflect and retain those standards and features of the pre-reform orders so as to not cause a significant change, and indeed to provide for the continued pooling of milk that had been pooled by market participants. The 35 percent shipping standard for supply plants adopted as part of milk order reform was slightly higher than that of the Southwestern Idaho-Eastern Oregon order and was slightly lower than that provided for in the Great Basin order. Nevertheless, the adopted 35 percent standard was intended to result in no milk losing its association in the larger consolidated order due to a change in a regulatory provision.

With regard to producer milk, the Final Decision of milk order reform established a limit for producer milk diversions to nonpool plants at 90 percent. This standard is identical to the diversion limit then applicable in the Southwestern Idaho-Eastern Oregon order, but is higher than the applicable standards of 75 percent for cooperatives and 70 percent for proprietary handlers in the Great Basin order. The 90 percent standard was determined to be appropriate for the consolidated Western order because it would permit all milk then associated with the market that was not needed at pool plants to continue to be pooled and priced under the order. The 90 percent standard was also adopted because it was envisioned that it would provide handlers more flexibility to efficiently move milk and not preclude most producers associated with either the Great Basin or Southwestern Idaho-Eastern Oregon orders from having their milk pooled in the new consolidated order.

This decision agrees with DFA and those who expressed support for adopting Proposals 3 and 7. The record reveals that because the Western order does not account for milk deliveries from supply plants to distributing plants on a net basis, more milk is being pooled on the order through the diversion process than can be considered a integral reserve supply of distributing plants. The act of physically receiving milk certainly demonstrates performance in supplying the fluid needs of the market. However, by pumping the same amount, or some portion of the milk physically received out of a distributing plant for other than Class I use, undermines the intent and importance of the performance standard. In practice, the unloading and reloading of milk creates an artificial base for pooling additional milk that cannot otherwise meet the specified performance standards.

Similarly, a netting provision on producer milk diverted from distributing plants is also needed to properly identify the milk of those producers that actually supply the marketing area's fluid needs. A ''net diversions'' provision is warranted for inclusion as part of the *Producer milk* definition of the order because the current diversion limit standard of the order does not properly limit the amount of milk that can be pooled by distributing plants. The diversion limit standard as it relates to supply plants is based on receipts. For supply plants, diverted milk is a component of the total receipts of the plant. For distributing plants, however, the pooling basis is determined by the amount of milk physically received. If a supply plant delivery no longer becomes a pool-qualifying shipment because shipments are determined on a net basis, then that milk should not be considered as physically received by the distributing plant and should therefore not be included as part of the basis for calculating the amount of milk that can be diverted from the distributing plant.

This decision finds that the adoption of Proposals 3 and 7 is warranted. Milk deliveries to distributing plants will be limited to milk transferred or diverted and physically received by distributing pool plants, less any transfers or diversions of bulk fluid milk products from the distributing plant. Relying on net shipments and net diversions for determining pool qualifying deliveries to distributing plants strengthens the principle of performance in supplying the Class I needs of the market as a condition for pooling diverted milk. Determining shipments and diversions on a net basis should also more appropriately identify the milk of those producers that should share in the distribution of Class I revenue by receipt of the order's blend price.

The record evidence does not support increasing the cooperative supply plant performance standard above the current 35 percent of receipts as sought in Proposal 4. The proposal is presented on the assumption that this decision would lower the diversion limit standard to 70 percent, and that in doing so, may cause entities to seek this special pool plant status. This proposal is rejected on the basis that the record does not reveal why this standard should be different from the ''regular'' supply plant standard. Additionally, speculation of how entities may choose to pool milk on the order is not, in the context of proposing a change in this performance standard, an appropriate basis upon which to make a change.

Providing for the diversion of milk is a desirable and needed feature of an order because it facilitates the orderly and efficient disposition of milk not needed for fluid use. When producer milk is not needed by the market for Class I use, some provision should be made for milk to be diverted to nonpool plants for use in manufactured products and still be pooled and priced under the order. Additionally, it is also necessary to safeguard against excessive milk supplies becoming associated with the market through the diversion process.

In the context of this proceeding, milk diverted by distributing plants is milk not physically received at the plants. While diverted milk is not physically received, it is nevertheless an integral part of the milk supply of the diverting distributing plant. If such milk is not part of the integral supply of the diverting plant, then that milk should not be associated with the diverting plant and should not be pooled. Associating more milk than is actually part of the legitimate reserve supply of the diverting plant unnecessarily reduces the potential blend price paid to dairy farmers who service the market's Class I needs.

Diversion limit standards that are too high can open the door for pooling more milk on the market. The record does not support lowering the diversion limit below the current 90 percent standard. As explained above, the lack of a netting provision for diversions by distributing plants has resulted in the inappropriate pooling of milk on the Western order. In this regard, the record evidence cannot attribute more milk being pooled on the order because the diversion limit standard is too high.

These findings, together with the original intents of the order's pooling provisions, may be altered if marketing conditions warrant their adjustments. In this regard, the Western order provides the Market Administrator with the authority to make needed adjustments to the shipping and diversion limit standards of the order.

e. Establishing Pooling Standards for State-Units

Two Proposals, published in the hearing notice as Proposals 2 and 9, seeking to establish pooling units organized and reported as ''State-units'' in the Pacific Northwest and Western milk orders respectively, should not be adopted. These proposals were offered by DFA. Specifically, the proposals would specify that milk from those States located outside of the States and counties that comprise the Western and Pacific Northwest marketing areas would be reported separately in units, organized by the State from which the milk originates. Each State-unit would need to meet the performance standards applicable for supply plants as a condition for being pooled on the orders. Neither order currently provides separate pooling standards for milk located outside of each respective marketing area.

The DFA witness explained that Proposals 2 and 9 address broader pooling issues by establishing reasonable performance standards for milk located outside of market areas and do not just simply prohibit the practice of double dipping as discussed earlier in this decision. In this regard, the witness indicated that Proposals 2 and 9 are offered to address the pooling of large volumes of milk from locations distant from the Pacific Northwest and Western marketing areas. According to the witness, large volumes of milk are being pooled without meeting any reasonable measures of performance in serving the Class I needs of the market.

The DFA witness testified that since the implementation of milk order reform, organizations like DFA have made purposeful pooling decisions to maximize returns and have engaged in the practice of double dipping to accomplish this end. Nevertheless, the witness acknowledged that the practice of double dipping is unfair and should be corrected. The witness continued to explain that the impact of double dipping on an order's blend price paled in comparison to the blend price impact caused by inadequate pooling provisions that do not properly stress the importance of demonstrating performance in regularly and consistently supplying the Class I needs of a marketing area. Additionally, the witness expressed the opinion that the relationship between the Class I pricing surface and the pooling provisions was fundamentally changed as part of milk order reform. Specifically, the witness noted, the movement to a nationally coordinated Class I pricing structure that makes adjustments to the Class I differential level by county accounts for the changed relationship.

The DFA witness stressed that while the new Class I price structure has a relationship to the blend price paid to producers, the connection between milk value and the distance of milk from the market are not adequately linked. The disconnect is further aggravated by the adoption of faulty pooling standards that run counter to three key criteria used during milk order reform in establishing the Class I price structure, the witness asserted. The three key criteria include, the witness said, sending appropriate marketing signals,

recognizing the value of milk at location, and recognizing handler equity with regard to raw product costs. The witness expressed the opinion that these outcomes were not anticipated by the Department.

The DFA witness drew from the Final Decision on milk order reform which detailed how milk marketing orders should pool milk and for identifying those producers whose milk should be eligible for pooling in the consolidated orders. In this regard, the witness particularly noted the Department's rejection of ''open pooling'' and that pooling provisions be performance oriented. According to the witness, the lack of pooling provisions that are sufficiently performance oriented result in volumes of ''distant'' milk pooled on orders that do not and would not ever perform any reasonable and consistent servicing of the Class I needs of a market in a manner similar to ''local'' milk. The witness asserted that inadequate performance standards have lowered producer blend prices and have caused the type of disorderly marketing conditions intended to be avoided by the Class I price structure criteria cited above.

The DFA witness concluded Proposals 2 and 9 are justified because their adoption would more appropriately link milk value and where milk is located relative to a market. According to the witness, these proposals are also superior to the adoption of other proposals (Proposals 1 and 10) because those proposals are aimed solely at eliminating or preventing double dipping. DFA asserted that Proposals 2 and 9 provide: (1) appropriate recognition to the concept of a marketing area where handlers compete for the majority of their Class I sales and the importance of performance as a condition for having milk eligible for pooling, (2) a measurable economic outcome consistent with Federal milk marketing order principles which do not prohibit pooling milk if the economics for doing so are positive, and (3) an adequate and reasonable safeguard for low Class I utilization markets in which lower diversion limits or higher performance standards for supply plants might otherwise cause hardship.

A NDA witness indicated an initial lack of understanding on the ramifications of Proposals 2 and 9 and expected to articulate a position in post-hearing briefs. The witness did express dissatisfaction on how milk order reform addressed the location value of milk and its relationship to pooling provisions in general. In their post-hearing brief, NDA indicated that they can support adoption of Proposal 9. However, NDA viewed Proposal 9 as having limited usefulness. With regard to Proposal 2, NDA's brief concluded that a State-unit pooling approach for out-of-area milk was not appropriate for the Pacific Northwest order because it does not adequately address the issue of double dipping. The brief was of the opinion that other proposals under consideration in another rulemaking proceeding for the Pacific Northwest order were more appropriate for that marketing order.

A witness representing River Valley testified in support of Proposal 9. The witness was of the opinion that local producer milk should not be used as a basis for qualifying distant milk for pooling on the order. The witness testified that the milk of producers from outside the market should be expected to meet the pooling standards of the order in the way local milk does as a condition for receiving the order's blend price.

Opposition to Proposal 9 was presented by Glanbia and Davisco. The Glanbia witness viewed the proposal as being designed to build barriers to market entry by dairy farmers located in and out of the Western order milkshed who otherwise may be attracted to pool their milk on the Western order.

The record does not support the adoption of performance standards for pooling milk on the Pacific Northwest or Western orders on the basis of its location or as the proponent and supporters of Proposal 2 and 9 describe as State-units. The marketing conditions of the Pacific Northwest and Western orders do not exhibit the need to require additional performance standards for milk located outside of the marketing area beyond those adopted in this decision. Accordingly, all plants, regardless of location, may become eligible to have the milk of producers pooled on the Pacific Northwest and Western orders by meeting the performance standards specified for the various types of pool plants.

It is not important who provides the milk for Class I use or from where this milk originates. The order boundaries of the Pacific Northwest and Western orders were not intended to limit or define which producers, which milk of those producers, or which handlers could enjoy the benefits of being pooled on those orders. What is important and fundamental to all Federal orders, including the Pacific Northwest and Western orders, is assuring an adequate supply of milk to meet the market's fluid needs, the proper identification of those producers who supply the market, and an equitable means of compensating those producers from the market's pool proceeds.

A significant portion of the testimony received at the hearing implicated the current Class I price structure as an important factor that has caused the inappropriate pooling of milk across the Federal order system including the Pacific Northwest and Western orders. The current price structure was faulted specifically as not providing appropriate location adjustments for milk as had been the case prior to the implementation of milk order reform.

Testimony indicated that the lack of location adjustments effectively undermines the pooling standards of the order. The decision to pool milk was once based on the economics of transporting milk—comparing the costs of transporting milk to the benefit of receiving the order's blend price. Testimony indicates this factor is as important as the pooling standards of the order. Critics of the Class I pricing structure were of the opinion that placing a relative value on milk based on its distance from the market provides appropriate pooling discipline and fosters orderly marketing conditions.

The reform of milk orders, contained in the Recommended Decision (63 FR 4802) and Final Decision (64 FR 16026), made purposeful changes to the Class I pricing structure. In this regard, a fixed adjustment for Class I milk prices was provided for every county location in the 48 contiguous states to create a national Class I pricing surface for the system of milk marketing orders. Changing this characteristic of the pricing structure ensured handlers that regardless of the marketing order by which regulated, the applicable prices they are charged would be the same.

Such changes made a more clear distinction between the value milk has at location and the pooling standards of any individual marketing order. Location adjustments were never a part of the pooling standards of the Pacific Northwest and Western orders or any other milk marketing order. Instead, location adjustments were an integral part of the pricing provisions of the order. However, it is acknowledged that how location adjustments were applied tended to strengthen the effectiveness of the order's pooling standards. Pooling standards have always established the criteria for pooling milk on the order and continue to do so in the consolidated milk marketing orders. With the Class I price surface adopted by order reform, more direct reliance is placed on pooling standards to identify the milk that should be pooled on the order.

Pooling provisions of all orders are intended to define appropriate standards for the prevailing marketing conditions in assuring that the marketing area would be supplied with a sufficient supply of milk for fluid use and to identify those producers—and the milk of those producers—that actually service the Class I needs of the market. The issue before the Department regarding pooling is the consideration of amendments that will provide standards for determining reasonable performance measures and to more properly identify the milk that regularly and consistently supplies the market's Class I needs.

As discussed earlier, the pooling standards of the consolidated Federal milk orders, including the Pacific Northwest and Western orders, were not intended to exclude any milk from being pooled on any order, provided the fluid needs of a marketing area are served. The reform of Federal milk orders rejected the concept of open pooling, and provided that each market would pool the milk that actually demonstrates a reasonable level of serving the fluid needs of the market as reflected in those order's pooling standards. The determination of the boundaries of the Pacific Northwest and Western marketing areas was guided by identifying the common characteristics of the predecessor orders that could be consolidated and to promulgate a marketing order containing provisions to provide for orderly marketing conditions. The consolidation of the pre-reform orders into the current Pacific Northwest and Western orders was not intended to determine those areas from which milk should, or should not, be obtained to serve the market.

The adoption of revised pooling standards, specifically adoption of netting provisions for supply plant performance standards and diversions from distribution plants and the removal of the PBTH provision in this decision, should assure milk will be available for the market's fluid needs and properly identify the milk of those producers that actually demonstrates consistent service to the market's Class I needs. Therefore the proposal for establishing State units is unnecessary for the Pacific Northwest and Western orders. Additionally, the State-unit proposal does not adequately or specifically prohibit the practice of double dipping in either the Pacific Northwest or Western orders. Accordingly, Proposals 2 and 9 are not adopted.

3. Marketwide Service Payments

A proposal, published in the hearing notice as Proposal 8, seeking to establish a marketwide service payment provision in the form of a transportation and assembly credit for the Western order, should not be adopted. Currently, the Western order does not provide for transportation and assembly credits or any other form of a marketwide service payment.

Proposal 8, offered by DFA, specifically seeks to modify the Western order by establishing a transportation credit and an assembly credit. The transportation credit would provide $0.0032 per mile for each hundredweight(cwt) of milk delivered to a pool distributing plant when the farm supplying the plant is located over 80 miles away. The credit would only apply to milk picked up directly from a farm located within the marketing area, processed at a Class I pool plant located in the order, with payment being made to the milk supplying producer or cooperative. The assembly credit of ten cents per cwt would apply to milk delivered to pool distributing plants. The proposal also recognizes that the reporting requirements of the order would also need amending to properly administer the transportation and assembly credit provision.

A witness appearing on behalf DFA testified that establishing a transportation and assembly credit is necessary to recoup costs associated with supplying the Western marketing area's Class I market. The witness argued that some producers are providing services which benefit the entire marketplace, but are unable to recoup the cost of these services from the marketplace. The DFA witness was of the opinion that the Federal milk marketing order system is structured to allow producers servicing the Class I needs of the marketing area to equitably share in the revenues generated in that marketing area. However, the DFA witness was also of the opinion that in the Western order, the costs of supplying the Class I market is noticeably higher for some, explaining that not all producers equitably share the cost of servicing the Class I market.

The DFA witness stated that large supplies of milk produced in the Western order are, in general, located far from distributing plants. As such, the witness continued, the costs of transporting milk to pool distributing plants are higher than in other Federal orders. The witness explained that a transportation credit would provide producers a means to recoup some of the cost of transporting milk to a pool distributing plant when it must be shipped long distances.

The DFA witness testified that because of weekly and monthly fluctuations in demand for Class I milk, supplying extra milk for Class I use or processing excess milk not needed for Class I use imposes extra costs for manufacturing plants that have the capacity to process this milk. The witness presented an example that detailed a DFA manufacturing plant's 2001 average daily processing capacity, referred to as ''throughput.'' The example illustrated that plant throughput was noticeably lower in the fall months of 2001, ranging from a low of 795,951 pounds per day to a high of 1,269,379 pounds per day in the spring months. Given such significant variation, the witness said, it is necessary that the market have the available balancing capacity to accommodate such fluctuations in demand.

The DFA witness also noted that a plant's manufacturing costs have a direct correlation to the plant's capacity that is idled during certain times of the year. During months of low Class I demand, explained the witness, manufacturing plants operate at full capacity resulting in lower per unit costs. However, during months of high fluid demand, the witness continued, manufacturing plants operate at less than full capacity but incur costs similar to when plants are operated at capacity. It is the costs arising from idled or unused capacity that is borne by a few pool manufacturing plants of the order while their service in balancing the Class I demand of the marketplace benefits the entire market, explained the witness. Therefore, concluded the witness, an assembly credit would help producers who are providing a service of marketwide benefit the means to recoup some of the costs they are unable to generate from the marketplace. The DFA witness estimated that the blend price would be reduced by approximately 2.2 cents per cwt if the assembly credit was adopted.

Two Utah dairy farmers testified in support of Proposal 8. The farmers stated that since Federal order reform, the Class I utilization in Utah has dramatically decreased which in turn has had a direct negative impact on the blend price Utah farmers receive. The dairy farmers were of the opinion that the adoption of an assembly and transportation credit would help restore some of the lost revenue represented by a lower blend price.

A witness appearing on behalf of Stoker testified in support of Proposal 8. Another witness appearing on behalf of

the Utah Farmers Union, also testified in support of Proposal 8.

A witness appearing on behalf of NDA, testified in opposition to Proposal 8. The witness stated that currently only one Federal order, the Upper Midwest order, has an assembly credit provision, stressing that the marketing conditions of that order are quite different from the Western order. In the Upper Midwest, the witness explained, farms tend to be significantly smaller and it is necessary to assemble milk from numerous farms in order to ''assemble'' a full tanker load of milk. The witness contrasted this by explaining that most farms in the Western order are large enough that a single farm is capable of shipping a full tanker load of milk. The witness concluded that it was therefore not appropriate to provide credit for the assembly of milk that does not need ''assembling.''

The NDA witness also asserted that the justification given for an assembly credit—the need to recover some of the balancing costs of the market—is itself inconsistent. Typically, the witness said, balancing functions are provided by manufacturing plants for processing milk when it is not needed at Class I plants. However, explained the witness, the proposed assembly credit would apply to those who deliver milk to Class I facilities and would not be limited to manufacturing plants that actually perform the balancing function. In this regard, the witness indicated, a credit for balancing should instead be paid to those pool plants that actually provide a balancing function and not to those who supply milk to Class I facilities.

The witness concluded that NDA was not aware of any difficulty of Western order distributing plants obtaining necessary milk supplies where milk must be assembled into a full tanker load before delivery to a pool distributing plant. Money should not be drawn from the Western order producer-settlement fund as an assembly credit because no ''assembly'' actually takes place, emphasized the witness.

The NDA witness also opposed the transportation credit feature of Proposal 8. While there are transportation credits in three other Federal orders, the witness said, they function in a different manner than that proposed for the Western order. In the Upper Midwest order transportation credits only apply to transfers of milk between plants, stated the witness, and not to direct shipments from farms to distributing plants. The witness also noted that in two southern orders where Class I use is high, transportation credits were established to fund bringing milk into the marketing area to fulfill all Class I needs. However, the witness contrasted, Western order Class I utilization is relatively low and does not exhibit the need for a transportation credit to encourage shipments of milk to satisfy Class I demands.

The NDA witness also asserted that the Western order already has a $0.30 difference in the level of applicable Class I differentials to encourage milk shipments towards population centers where most distributing plants are located. Accordingly, the witness maintained, there is no need to provide an additional incentive for moving milk to pool distributing plants.

The witness also predicted that adopting a transportation credit would give rise to disorderly marketing conditions because it would provide an incentive for milk located farther away to be delivered to distributing plants while milk located nearer would then need to be shipped to manufacturing plants located farther away. The NDA witness concluded that there are no cost disadvantages that would be corrected by providing the Western order with transportation and assembly credit provisions.

Two witnesses appearing on behalf of KDK and Gossner testified in opposition to Proposal 8. The witnesses were of the opinion that Western order producers should not be paying for assembly credit for a few pool plants that are unable to recoup their costs of balancing. They also stressed that it was inappropriate to establish a transportation credit to encourage the movement of distant milk when producers located nearer to pool distributing plants are willing and able to supply the market without a credit.

A witness appearing on behalf of River Valley also testified in opposition to Proposal 8. The witness stated that the order's blend price should not be reduced to pay for transportation and assembly credits. Instead, the witness said, Class I plants should pay their milk suppliers a direct delivery differential in lieu of a transportation credit and that the level of the Class I differential should be increased. In that way, the witness explained, the blend price paid to producers would be unaffected.

Objections by several parties were raised regarding evidence presented in support of some features of Proposal 8. The objecting parties argued that the testimony given equating balancing costs with assembly costs was beyond the scope of the hearing notice. The objectors moved that such testimony be stricken from the record. Objectors maintained that assembly costs and balancing costs are two entirely different concepts. Because the concept of balancing was not noticed in the hearing notice, the objectors stressed, interested parties were not prepared to discuss the concept of balancing. The objectors also maintained that in previous Federal order hearings where assembly credits were proposed, balancing functions and associated costs were never presented in a context for explaining the need for an assembly credit.

The presiding Administrative Law Judge (ALJ) overruled the objection to strike evidence regarding balancing costs from the record. However, the presiding ALJ found that balancing is fundamentally different from assembly. Accordingly, the ALJ ruled the assembly credit feature of Proposal 8 as being beyond the scope of the proposal presented in the hearing notice.

The record lacks sufficient evidence for the adoption of the transportation and assembly credit proposal. The relative low Class I utilization of the Western marketing area characterizes the order as a market in which manufacturing predominates. In this regard, the record makes clear that the Class I needs of the market are sufficiently supplied, even though certain pooling provisions lack needed features. In fact, the record evidence which supports the adoption of a net diversions feature for diverted milk by distributing plants effectively undercuts the argument that somehow additional compensation or incentive should be provided to attract milk to distributing plants beyond that provided by the level of the Class I differential. If distributing plants engage in the behavior of physically receiving milk and then pumping the milk out of the plant and diverting it for uses other than Class I, it is abundantly clear that distributing plants are certainly adequately supplied with milk.

This decision finds that the evidence and testimony for the adoption of Proposal 8 has more to do with proponents responding to the Western order's improper and inadequate features of pooling provisions than in explaining how the ''services'' of a few are providing benefit for the entire market. Improper or inadequate features of pooling provisions do not provide justification for adopting this sort of mechanism by which to compensate for lower producer revenue resulting from improper or inadequate features of pooling provisions.

Additionally, this decision agrees with the ALJ's determination that the assembly credit portion of Proposal 8 is beyond the scope of the hearing notice. For this reason alone the proposal warrants denial. As indicated by NDA,

the concept of ''assembly'' is far different from the concept of ''balancing.'' This is especially so given the context of testimony explaining balancing and balancing costs as a reflection of unused manufacturing plant capacity while diminimus testimony on milk assembly and assembly costs was offered.

4. Pooling Provision Clarifications

Proposals 15 and 16, seeking to clarify order language in the *Producer* and *Producer milk* provisions of the Western order, should be adopted immediately. Currently the *Producer* provision does not list Class II milk at nonpool plants as a type of utilization that a handler can opt to not pool without causing a producer to lose producer status. The current *Producer milk* definition does not allow a dairy farmer who lost producer status to again qualify milk for diversion until delivery of one days' milk production has been received at a pool plant.

Proposal 15, offered by the Western order Market Administrator (MA), seeks to modify the *Producer* provision by adding Class II utilization of milk at a non-pool plant as a type of milk utilization a handler may elect to not pool without jeopardizing the producer status of that producer. Proposal 16, also offered by the MA, seeks to modify the *Producer milk* provision by allowing a dairy farmer to re-qualify for producer status in the same manner that a dairy farmer who has never qualified can have their milk pooled on the order.

Witnesses appearing on behalf of DFA and NDA testified in support of Proposals 15 and 16. The witnesses stated that both proposals make necessary changes to the order that reflect current market needs. Furthermore, said the witnesses, the changes will assist in the interpretation and administration of the order. Neither proposal received opposition testimony.

5. Determination of Emergency Marketing Conditions

Evidence presented at the hearing establishes that the pooling standards of the Western order are inadequate and have resulted in the unwarranted erosion of the blend price received by producers who are serving the Class I needs of the market and should be changed on an emergency basis. The unwarranted erosion of such producers' blend prices stems, in part, from improper performance standard features as they relate to pool supply plants, from inadequate features as they relate to producer milk diversions by distributing plants, and the PBTH provision. These shortcomings of the pooling provisions have allowed milk that does not provide consistent and reasonable service in meeting the needs of the Class I market to be pooled on the Western order. Additionally, the PBTH provision gives rise to disorderly marketing conditions and renders the order unable to establish prices to handlers that are uniform. Consequently, it is determined that emergency marketing conditions exist and the issuance of a recommended decision is therefore being omitted. The record clearly establishes a basis as noted above for amending the order on an interim basis and the opportunity to file written exceptions to the proposed amended order remains.

Evidence presented at the hearing also establishes that California milk pooled simultaneously on the California State-operated order and a Federal order, a practice commonly referred to as double dipping, would render the Pacific Northwest milk order and does render the Western milk order unable to establish prices that are uniform to producers and to handlers and contributes to the unwarranted erosion of milk prices to Western producers and the erosion of milk prices that could result to producers supplying milk for the Pacific Northwest marketing area should double dipping occur in the Pacific Northwest marketing area.

In view of this situation, an interim final rule amending the orders should be issued as soon as the procedures are completed to determine the approval of producers whose milk is pooled in both the Pacific Northwest and Western orders.

Rulings on Proposed Findings and Conclusions

Briefs, proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Pacific Northwest and Western orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the aforesaid marketing agreements and orders:

(a) The interim marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the interim marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The interim marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreements upon which a hearing has been held.

Interim Marketing Agreement and Interim Order Amending the Orders

Annexed hereto and made a part hereof are two documents, an Interim Marketing Agreement regulating the handling of milk, and an Interim Order amending the orders regulating the handling of milk in the Pacific Northwest and Western marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire tentative decision and the interim order and the interim marketing agreement annexed hereto be published in the **Federal Register**.

Determination of Producer Approval and Representative Period

The month of April 2002 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Pacific Northwest and Western marketing areas is approved or favored by producers, as defined under the terms of the orders as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

List of Subjects in 7 CFR Part 1124 and 1135

Milk marketing orders.

Dated: August 8, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

Interim Order Amending the Orders Regulating the Handling of Milk in the Pacific Northwest and Western Marketing Areas

This interim order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Pacific Northwest and Western marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to Section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Pacific Northwest and Western marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

1.The authority citation for 7 CFR part 1124 and 1135 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 1124.13 is amended by:

(a) Revising the introductory text; and

(b) Adding a new paragraph (f).

The revision and addition read as follows:

§ 1124.13 Producer milk.

Except as provided for in paragraph (f) of this section, *Producer milk* means the skim milk (or skim milk equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

* * * * *

(f) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

PART 1135—MILK IN THE WESTERN MARKETING AREA

3. Section 1135.7 is amended by adding a new paragraph (c)(5).

The addition reads as follows:

§ 1135.7 Pool plant.

* * * * *

(c) * * *

(5) Shipments used in determining qualifying percentages shall be milk transferred or diverted to and physically received by distributing pool plants, less any transfers of bulk fluid milk products from such distributing pool plants.

* * * * *

§ 1135.11 [Removed]

4. Section 1135.11 is removed.

5. Section 1135.13 is amended by:

(a) Revising the introductory text.

(b) Revising paragraph (d)(1);

(c) Redesignating paragraph (d)(3) through (d)(6) as (d)(4) through (d)(7);

(d) Adding a new paragraph (d)(3); and

(e) Adding a new paragraph (e).

The revisions and additions read as follows:

§ 1135.13 Producer milk.

Except as provided for in paragraph (e) of this section, *Producer milk* means the skim milk (or skim milk equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

* * * * *

(d) * * *

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's milk production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion unless one day's milk production has been physically received as producer milk at a pool plant during the month;

* * * * *

(3) Receipts used in determining qualifying percentages shall be milk transferred to, diverted to, or delivered from farms of producers pursuant to § 1000.9(c) and physically received by plants described in § 1135.7(a) or (b), less any transfers of diversions of bulk fluid milk products from such pool distributing plants.

* * * * *

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

6. Section 1135.12 is amended by:

(a) Revising paragraph (b)(5).

The revision reads as follows:

§ 1135.12 Producer.

* * * * *

(b) * * *

(5) A dairy farmer whose milk was received at a nonpool plant during the month from the same farm (except a nonpool plant that has no utilization of milk products in any class other than Class II, Class III, or Class IV) as other than producer milk under the order in this part or any other Federal order. Such a dairy farmer shall be known as a dairy farmer for other markets.

* * * * *

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR part

900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§_____[1] to _____, all inclusive, of the order regulating the handling of milk in the (____Name of order _____) marketing area (7 CFR PART __[2]) which is annexed hereto; and

II. The following provisions: §_____[3] Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he/she handled during the month of _____[4] 2002, _____[5] hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Deputy Administrator, or Acting Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§_____[6] Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature By (Name) _____

(Title) _____

(Address) _____

(Seal)

Attest

[FR Doc. 03–20689 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–21–AD]

RIN 2120–AA64

Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd. Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all AeroSpace Technologies of Australia Pty Ltd. (ASTA) Models N22B and N24A airplanes. This proposed AD would require you to visually inspect the ailerons for damage and replace if necessary; adjust the engine power levers aural warning microswitches; set flap extension and flap down operation limitations; and fabricate and install cockpit flap extension and flap down operation restriction placards. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Australia. The actions specified by this proposed AD are intended to prevent damage to the aileron due to airplane operation and pre-existing and undetected damage, which could result in failure of the aileron. Such failure could lead to reduced or loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before September 19, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–21–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2003–CE–21–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Nomad Operations, Aerospace Support Division, Boeing Australia, PO Box 767, Brisbane, QLD 4000 Australia; telephone 61 7 3306 3366; facsimile 61 7 3306 3111. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5224; facsimile (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the proposed rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2003–CE–21–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Civil Aviation Safety Authority (CASA), which is the airworthiness authority for Australia, recently notified FAA that an unsafe condition may exist on all ASTA Models N22B and N24A airplanes. The CASA reports several incidents of ailerons incurring damage during flight. Extensive tests and analysis revealed that the cause of the damage to the ailerons is a result of operation outside approved limits and undetected pre-existing damage. This condition causes the aileron to flutter as well as damage and failure.

The CASA lowered the operational limits of the affected airplanes in order to prevent damage from occurring. Additional reports of aileron flutter have been received even when operating within these lower approved limits.

As a precautionary measure, the CASA is further restricting flight operations.

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[1] First and last sections of applicable order.

[2] Appropriate part number.

[3] Applicable section number.

[4] Appropriate representative period for the order.

[5] Hundredweight poundage of milk.

[6] Applicable section number.

What are the consequences if the condition is not corrected? If this condition is not corrected, it could result in aileron failure. Such failure could lead to reduced or loss of control of the airplane.

Is there service information that applies to this subject? ASTA has issued Nomad Alert Service Bulletin ANMD–57–18, dated December 19, 2002.

What are the provisions of this service information? The service bulletin includes procedures for:

—Adjusting the engine power levers aural warning microswitches;
—Setting flap extension and flap down operation limitations; and
—Fabricating and installing cockpit flap extension and flap down operation restriction placards.

What action did the CASA take? The CASA classified this service bulletin as mandatory and issued Australian AD/GAF–N22/69, Amendment 4, dated February 27, 2003, in order to ensure the continued airworthiness of these airplanes in Australia.

Was this in accordance with the bilateral airworthiness agreement? These airplane models are manufactured in Australia and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the CASA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What has FAA decided? The FAA has examined the findings of the CASA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other ASTA Models N22B and N24A airplanes of the same type design that are on the U.S. registry;
—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to visually inspect the ailerons for damage and replace if necessary, and incorporate the actions in the previously-referenced service bulletin.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Cost Impact

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 10 airplanes in the U.S. registry.

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

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhours × $60 per hour = $60	Not applicable	$60	10 × $60 = $600

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of this proposed inspection. We have no way of determining the number of airplanes that may need such repair/replacement:

Labor cost	Parts cost	Total cost per airplane
10 workhours × $60 per hour = $600	$1,250	$600 + $1,250 = $1,850

We estimate the following costs to accomplish the proposed modifications:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
10 workhours × $60 per hour = $600	$100	$700	$700 × 10 = $7,000

Regulatory Impact

Would this proposed AD impact various entities? The regulations proposed herein 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. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Aerospace Technologies of Australia PTY LTD.: Docket No. 2003–CE–21–AD

(a) *What airplanes are affected by this AD?* This AD affects Models N22B and N24A airplanes, all serial numbers, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent damage to the aileron due to airplane operation and pre-existing and undetected damage, which could result in failure of the aileron. Such failure could lead to reduced or loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) Visually inspect the left-hand (LH) and right-hand (RH) ailerons for damage (*i.e.*, distortion, bending, impact marks). Repair or replace any damaged aileron found..	Inspect within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished. Repair or replace prior to further flight after the inspection.	In accordance with the applicable maintenance manual.
(2) Adjust the engine power lever actuated landing gear ''up'' aural warning microswitches and then perform a ground test.	Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	In accordance with Nomad Alert Service Bulletin ANMD–57–18, dated December 19, 2002.
(3) For Model N22B airplanes: (i) Fabricate placards that incorporate the following words (using at least 1/8-inch letters) and install these placards on the instrument panel within the pilot's clear view: (A) ''RECOMMENDED APPROACH FLAPS 10 OR 20 DEG AT 90 KIAS''; (B) ''USE 10° or 20° FLAP FOR TAKE-OFF AND LANDING—**WARNING**—DO NOT EXCEED 20° FLAP EXTENSION DURING FLIGHT, LANDING GEAR UP WARNING WILL INITIATE FOR A TORQUE PRESSURE OF LESS THAN 30 PSI''; and (ii) Incorporate the following information into the limitation section of the Airplane Flight Manual (AFM); (A) Limit the maximum flap extension to 20 degrees; and (B) Limit flaps down operations landing for 10° flap.	Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	In accordance with Nomad Alert Service Bulletin ANMD–57–18, dated December 19, 2002. Accomplish the limitations of paragraph (d)(4)(ii)(A) and (d)(4)(ii)(B) of this AD by inserting a copy of the AD into the Limitations Section of the flight manual. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish this flight manual insertion and the placard requirements of paragraph (d)(4)(i)(A) and (d)(4)(i)(B) of this AD. Make an entry into the aircraft records showing compliance wit these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(4) For Model N24A airplanes: (i) Fabricate a placard that incorporates the following words (using at least 1/8-inch letters) and install this placard on the instrument panel within the pilot's clear view: (A) ''USE 10° FLAP FOR TAKE-OFF AND LANDING—**WARNING**—DO NOT EXCEED 10° FLAP EXTENSION DURING FLIGHT, LANDING GEAR UP WARNING WILL INITIATE FOR A TORQUE PRESSURE OF LESS THAN 30 PSI''; and (ii) Incorporate the following information into the limitation section of the Airplane Flight Manual (AFM): (A) Limit the maximum flap extension to 10 degrees; and (B) Limit flaps down operations for landing to 10° flap.	Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	In accordance with Nomad Alert Service bulletin ANMD–57–18, dated December 19, 2002. Accomplish the limitations of paragraphs (d)(5)(ii)(A) and (d)(5)(ii)(B) of this AD by inserting a copy of the AD into the Limitations Section of the flight manual. the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish this flight manual insertion and the placard requirement of paragraph (d)(5)(i)(A) of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(e) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, follow the procedures in 14 CFR 39.19. Send these requests to the Manager, Standards Office, Small Airplane Directorate. For information on any already approved alternative methods of compliance, contact Ron Atmur, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5224; facsimile (562) 627–5210.

(f) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Nomad Operations, Aerospace Support Division, Boeing Australia, PO Box 767, Brisbane, QLD 4000 Australia; telephone 61 7 3306 3366; facsimile 61 7 3306 3111. You

may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note: The subject of this AD is addressed in Australian AD/GAF–N22/69, Amendment 4, dated February 27, 2003.

Issued in Kansas City, Missouri, on August 12, 2003.

Diane K. Malone,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–20984 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–03–030]

RIN 1625–AA09

Drawbridge Operation Regulations; Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulation governing the operation of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (Gulf Intracoastal Water Way (GIWW) mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7 East of Harvey Lock), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5 East of Harvey Lock), across the Inner Harbor Navigation Canal in New Orleans, Orleans Parish, Louisiana. New traffic studies indicate that rush hour vehicular traffic has increased congestion across all three bridges. This proposed regulation change would increase the time that the bridges would be open to vehicular traffic (closed to vessel traffic) by 15 minutes in the morning and afternoon and begin the afternoon closure one hour and 15 minutes earlier.

DATES: Comments and related material must reach the Coast Guard on or before October 17, 2003.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration office between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Kay Wade, Bridge Administration Branch, 504–589–2965.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08–03–030], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The U.S. Coast Guard, at the request of a state representative and the owner of two of the three bridges crossing the Inner Harbor Navigation Canal in New Orleans, Orleans Parish, Louisiana, proposes to change the times of the existing drawbridge operation regulation. Currently, all three bridges remain closed to navigation and open to vehicular traffic during the morning and afternoon commuter rush hours. The SR 46 (St. Claude Avenue) bascule span highway bridge at mile 0.5, the SR 39 (Judge Seeber/Claiborne Avenue) vertical lift span highway bridge at mile 0.9, and the Florida Avenue bascule span highway and railroad bridge at mile 1.7 are governed by 33 CFR 117.458, which states that the draw of these three bridges shall open on signal; except that, from 6:45 a.m. to 8:30 a.m. and from 4:45 p.m. to 6:45 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels. The draws shall open at any time for a vessel in distress.

In an effort to reassess and accurately determine the needs of the commuters who cross these three bridges in the morning and afternoon en route to and from work in the Lower Ninth Ward area of New Orleans and in St. Bernard Parish, the Port of New Orleans hired Urban Systems to perform a new traffic study. The March 2003 traffic study revealed the average peak periods for vehicular traffic crossing the SR 46 (St. Claude Avenue) and the Florida Avenue bridges are from 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:45 p.m. This marks a shift from the peak traffic times currently reflected in the regulation that was based on a traffic study completed in October 1999.

Traffic counts for the SR 39 (Judge Seeber/Claiborne Avenue) bridge were not conducted. However, the Claiborne Avenue bridge is located in close proximity to the other two bridges and is expected to exhibit similar traffic patterns. The Claiborne Avenue bridge provides a vertical clearance of 40 feet above Mean High Water in the closed to navigation position and is therefore expected to have less impact on vessel traffic than the other two bridges.

A review of the bridge tender logs revealed that adjusting the marine traffic closures to coordinate with vehicular rush hour traffic should not significantly impact the flow of marine traffic.

Allowing the bridges to remain closed to marine traffic during times that coincide with the heaviest vehicular traffic counts would help to relieve the morning and afternoon rush hour commuter traffic congestion across the bridges while having minimal impact on vessel traffic.

Discussion of Proposed Rule

The proposed rule change to 33 CFR 117.458 would allow the bridges across the Inner Harbor Navigation Canal in New Orleans, Louisiana, at mile 0.5, 0.9, and 1.7 to remain closed to navigation beginning at 6:30 a.m. instead of 6:45 a.m. and remain closed until 8:30 a.m. In the afternoon, the closure time would begin earlier at 3:30 p.m. and end at 5:45 p.m. instead of 6:45 p.m. These changes would more closely coincide with peak rush hour traffic.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of

potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This proposed rule adds 15 minutes to the existing drawbridge operating regulation and shifts the afternoon closure time up by one hour and 15 minutes. A review of the bridge logs for these three bridges indicates that minimal requests to open the bridges during these periods have been made in the past, and there is no indication that there will be a future increase.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect a limited number of small entities. These entities include the owners or operators of vessels needing to transit the Inner Harbor Navigation Canal between mile 0.5 and mile 1.7 from 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:45 p.m. on weekdays.

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), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Eighth Coast Guard District Bridge Administration Branch at the address above.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have 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.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of NEPA. Since this rule will alter the normal operating conditions of the drawbridges, it falls within this exclusion. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.458, paragraph (a) is revised to read as follows:

§ 117.458 Inner Harbor Navigation Canal, New Orleans.

(a) The draws of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7 East of Harvey Lock), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5 East of Harvey Lock), shall open on signal; except that, from 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:45 p.m., Monday through Friday, except federal holidays, the draws need not open for the passage of vessels. The draws shall open at any time for a vessel in distress.

* * * * *

Dated: August 6, 2003.

R.F. Duncan,

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

[FR Doc. 03–21088 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 219 and 294

RIN 0596–AC05

National Forest System Land and Resource Management Planning; Special Areas; Roadless Area Conservation

AGENCY: Forest Service, USDA.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: Notice is hereby given that the public comment period is being extended for the advance notice of proposed rulemaking (ANPR) published on July 15, 2003 (68 FR 41864) to solicit public input concerning the applicability of the roadless area conservation rule published on January 12, 2001 (66 FR 3244) (the roadless rule), to both the Tongass and the Chugach National Forests in Alaska. The original comment period for this ANPR ended on August 14, 2003.

On July 10, 2001, the Forest Service published an ANPR (66 FR 35918) seeking public comment concerning how best to proceed with long-term protection and management of inventoried roadless areas. The 2001 ANPR expressed the Department's belief that inventoried roadless areas contain important environmental values that warrant protection, and identified a set of principles that would guide the Department in addressing this subject. This second ANPR solicits further public input concerning the applicability of the roadless rule to both the Tongass and the Chugach National Forests in Alaska.

In conjunction with this notice, the agency is publishing a separate notice of extension of the comment period for the proposed rule published on July 15, 2003 (68 FR 41865), to amend regulations concerning the roadless rule to temporarily exempt the Tongass National Forest from prohibitions against timber harvest, road construction, and reconstruction in inventoried roadless areas until a final rule is promulgated as announced by the Forest Service in the 2001 ANPR. The extension notice for the proposed rule has been published elsewhere in the same part of today's **Federal Register**.

The agency has received a large volume of responses to the advance notice of proposed rulemaking thus far; and therefore, has decided to provide the public additional time to comment. In seeking public comment on this advance notice of proposed rule, the agency is fulfilling part of the Department's obligations under the June 10, 2003 settlement agreement for *State of Alaska* v. *USDA,* while also maintaining the ecological values of inventoried roadless areas in the Tongass and Chugach National Forests. Public comment is invited and will be considered in the development of the proposed rule.

DATES: Comments must be postmarked by the new deadline of September 2, 2003.

ADDRESSES: Send written comments to: Roadless ANPR, USFS Content Analysis Team, P.O. Box 22777, Salt Lake City, Utah, 84122; by electronic mail to *roadlessanpr@fs.fed.us;* or by facsimile to (801) 880–3311. If you intend to submit comments in batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and Department of Agriculture computer systems intended to prevent commercial spamming may limit batched e-mail access. The Forest Service is interested in receiving all comments on this advance notice of proposed rulemaking, however, so please call (801) 517–1020 to facilitate transfer of comments in batched e-mail messages. Please note that all comments will be available for public inspection and copying. The agency cannot confirm receipt of comments. Individuals wishing to inspect the comments should call Jody Sutton at (801) 517–1023 to facilitate an appointment.

FOR FURTHER INFORMATION CONTACT: In Washington, DC contact: Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service, USDA, (202) 205–1019; and in Juneau, Alaska contact: Jan Lerum, Regional Planner, Forest Service, USDA, (907) 586–8796.

Dated: August 14, 2003.

Dale N. Bosworth,

Chief.

[FR Doc. 03–21208 Filed 8–14–03; 2:29 pm]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AC04

Special Areas; Roadless Area Conservation; Applicability to the Tongass National Forest, Alaska

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: Notice is hereby given that the public comment period is being extended for the proposed rule published on July 15, 2003 (68 FR 41865), to amend regulations concerning the roadless area conservation rule published on January 12, 2001 (66 FR 3244) (the roadless rule), to temporarily exempt the Tongass National Forest from prohibitions against timber harvest, road construction, and reconstruction in inventoried roadless areas until a final rule is promulgated as announced by the Forest Service on July 10, 2001, in an advance notice of proposed rulemaking (ANPR) (66 FR 35918). The original comment period for this proposed rule ended August 14, 2003.

In conjunction with this notice, the agency is publishing a separate notice of extension of the comment period for the ANPR to solicit public input concerning the applicability of the roadless rule to both the Tongass and the Chugach National Forests in Alaska, elsewhere in the same part of today's **Federal Register**. The ANPR was published on July 15, 2003 (68 FR 41864), with an original comment period end date of August 14, 2003.

The agency has received a large volume of responses to the proposed rule thus far; and therefore, has decided to provide the public additional time to comment. In seeking public comment on this proposal to amend the roadless rule, the agency is fulfilling part of the Department's obligations under the June 10, 2003 settlement agreement for *State of Alaska* v. *USDA,* while maintaining the ecological values of inventoried roadless areas in the Tongass National Forest. Public comment is invited and will be considered in the development of the final rule.

DATES: Comments must be postmarked by the new deadline of September 2, 2003.

ADDRESSES: Send written comments to: Roadless TNF, Content Analysis Team, USDA Forest Service, P.O. Box 22810, Salt Lake City, UT 84122; by electronic mail to *roadlesstnf@fs.fed.us;* or by facsimile to (801) 880–2808. If you intend to submit comments in batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and Department of Agriculture computer systems intended to prevent commercial spamming may limit batched e-mail access. The Forest Service is interested in receiving all comments on this proposed rule, however, so please call (801) 517–1020 to facilitate transfer of comments in batched e-mail messages. Please note that all comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The agency cannot confirm receipt of comments. Individuals wishing to inspect the comments should call Jody Sutton at (801) 517–1023 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: In Washington, DC contact: Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service, USDA, (202) 205–1019; and in Juneau, Alaska contact: Jan Lerum, Regional Planner, Forest Service, USDA, (907) 586–8796.

Dated: August 14, 2003.

Dale N. Bosworth,

Chief.

[FR Doc. 03–21209 Filed 8–14–03; 2:29 pm]

BILLING CODE 3410–11–P

POSTAL SERVICE

39 CFR Part 111

Revised Format for Pressure-Sensitive Presort Destination Package Labels

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule contains minor changes to the *Domestic Mail Manual* (DMM) that would implement the use of redesigned pressure-sensitive package labels. The redesigned labels, similar to the current labels that mailers affix to the top mailpiece in packages of mailpieces (bundles of individual mailpieces secured together) instead of using optional endorsement lines (OELs), would continue to indicate the presort level of all the pieces banded into individual presort destination packages.

DATES: Submit comments on or before September 17, 2003.

ADDRESSES: Mail or deliver comments to the Manager, Mailing Standards, ATTN: Neil Berger, U.S. Postal Service, 1735 N. Lynn Street, Room 3025, Arlington, VA 22209–6038. Written comments may also be submitted by facsimile transmission to (703) 292–4058. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the Postal Service Headquarters Library, 11th Floor North, 475 L'Enfant Plaza SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Neil Berger at (703) 292–3645, Mailing Standards, U.S. Postal Service; or Jamie Gallagher at (202) 268–4031, P&DC Operations, U.S. Postal Service.

SUPPLEMENTARY INFORMATION: In recent years, numerous automated advances in mail processing developed by the Postal Service have led to faster, more efficient methods of sorting individual letter-size and flat-size pieces. A new system, to be designated as the Automated Package Processing System (APPS), would extend similar benefits of automated processing to small, lightweight parcels and to letter-size pieces and flat-size pieces such as magazine and catalogs prepared in packages (several mailpieces presorted and secured together into a single unit). The APPS equipment represents the next generation of the Small Parcel and Bundle Sorter (SPBS) currently used by the Postal Service.

Barcoded pressure-sensitive package labels would be one method to support the use of the APPS, which the Postal Service plans to deploy beginning in 2004 in major processing and distribution centers to improve operational efficiency and increase workhour productivity. The use of these new labels would have no significant effect, however, on mail preparation standards and processes or on current mailer operations, especially mailer operations using optional endorsement lines (OELs) for designating the presort level of packages containing letter-size pieces or flat-size pieces. This proposed change would not replace OELs. In fact, mailers currently using OELs should continue using these cost-efficient information lines rather than converting to the use of pressure-sensitive package labels.

Automated Package Processing

With its large processing capacity, the APPS will replace current labor-intensive methods with more efficient automated methods that improve the sortation of parcels, Priority Mail envelopes, and presort destination packages of letter-size and flat-size mailpieces. The APPS contains several advanced features, including an integrated optical character/barcode reader with four-sided image capture. With this feature, the APPS can read and interpret information from properly prepared parcels and presort destination packages and automatically direct the parcels and presort packages to the appropriate bins.

Applying a pressure-sensitive package label to the top mailpiece in a presort package of banded mailpieces is one method that mailers use to indicate the sortation level for certain letter-size mail, flat-size mail, and small parcels that are required to be packaged before being placed into a tray or sack or placed onto a pallet. The proposed design changes to these presort labels would ensure that presort packages could be scanned and sorted automatically on the APPS.

Label Format Changes

The proposed changes affect the five pressure-sensitive package labels that mailers currently use. The size of the proposed rectangular labels would measure 3/4 inch wide by 1/2 inch high. Current scalloped-shaped pressure-sensitive package labels measure 7/8 inch wide and 1/2 inch high. A width-modulated barcode would appear on the right side of each label as a unique indicator of the sortation level. The bars of the barcode are 0.02 inch wide and 0.50 inch high. The rightmost bar ends 0.04 inch from the right edge of the label. Each new label would also contain a human-readable single alpha or numeric character to the left of the barcode, corresponding to the sortation level of the package as shown in the following table.

PACKAGE LABELS—SORTATION CHARACTERS AND COLORS

Sortation level	Label color	Approximate pantone equivalent	Presort character
Firm (Periodicals use only)	Blue	PMS 306	F
5-digit	Red	PMS 811	5
3-digit	Green	PMS 373	3
ADC	Pink	PMS 224	A
Mixed ADC	Tan	PMS 727	X

The new label design would allow the APPS equipment to find and read the necessary information much more quickly, and the redundant information appearing on the redesigned labels would ensure a higher read rate and lower false positive rate as well as accommodate incidental label damage. The label could be placed anywhere on the address side of the package or the parcel for proper recognition, provided that opaque banding or strapping is not placed over the labels.

The proposed pressure-sensitive package labels would be the same color as the current labels. Besides the label shape, slightly smaller label size, and barcode, the only other changes would be the following:

• The alpha character ''D'' that appears on the current red labels for the 5-digit sortation level would be replaced with the numeric ''5.''

• The alpha characters ''MXD'' that appear on the current tan labels for the mixed ADC sortation level would be replaced with the single alpha character ''X.''

Label Availability and Use

The scheduled availability of the new pressure-sensitive package labels from the Postal Service (through existing procurement and supply sources) would be in late September 2003. Mailers would be permitted to begin using the new package labels as soon as they become available from their local post office. Effective January 1, 2004, however, mailers not using OELs would be required to use only the barcoded pressure-sensitive package labels rather than the nonbarcoded labels.

Editorial and Organizational Changes

This proposed rule also includes minor editorial revisions that clarify and standardize the text of mailing standards related to package preparation as follows:

• *Unit M031.* Clarification of label format used for the destination line (Line 1) for overseas military mail is made to the section on tray and sack labels and the section on pallet labels. Other sections throughout module M in the DMM for nonautomation mail now reference this section on overseas military mail.

• *Unit M032.* Clarification of label format used for the destination line (Line 1) for overseas military mail is made to the section on barcoded tray and sack labels. Other sections throughout module M in the DMM for automation rate mail now reference this section on overseas military mail. For the content identifier for presorted Standard Mail machinable and irregular parcels (content identifier number 603), the human-readable content line ''STD MACH & IRREG 5D'' is changed to ''STD MACH–IRREG 5D.''

• *Section M073.1.6.* Presentation of sacking and labeling requirements for combined mailings of Standard Mail and Package Services parcels is standardized for simplicity and editorial consistency. Line 2 (content line) label information is now incorporated with requirements for preparation sequence, minimum sack size, and Line 1 labeling.

• *Unit M130.* Presentation of packaging, traying, sacking, and labeling requirements for Presorted First-Class Mail is standardized for simplicity and editorial consistency. Packaging requirements and exceptions to those requirements are also clarified.

• *Part M210.2.0.* Presentation of packaging and labeling requirements for presorted Periodicals mail is standardized for editorial consistency.

• *Unit M610.* Packaging requirements for presorted Standard Mail are clarified, and the mailing standards for flat-size pieces and irregular parcels are separated. Additional organizational changes are made for editorial consistency.

• *Unit M722.* Presentation of packaging, sacking, and labeling requirements for Bound Printed Matter is standardized throughout this unit.

• *Unit M730.* Presentation of packaging and labeling requirements for Media Mail is standardized for editorial consistency.

• *Unit MM740.* Presentation of packaging and labeling requirements for Library Mail is standardized for editorial consistency.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the *Domestic Mail Manual,* incorporated in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as set forth below:

Domestic Mail Manual (DMM)

* * * * *

M Mail Preparation and Sortation

M000 General Preparation Standards

* * * * *

M030 Containers

M031 Labels

1.0 SACK AND TRAY LABELS

* * * * *

[Revise heading of 1.2 to read as follows:]

1.2 Line 1 (Destination Line)

[Revise 1.2 to read as follows:]

Line 1 (destination line) must meet these standards:

a. *Placement.* Line 1 must be the first visible line on the label. It must be completely visible and legible when placed in the label holder. This visibility is ensured if the top line is no less than 1/8 (0.125) inch below the top of the label when the label is cut and prepared.

b. *Information.* Line 1 must contain only the information specified by standard, including the appropriate destination facility prefix (*e.g.,* ''ADC''). Two zeros may follow 3-digit ZIP Code prefixes used as required by labeling standards.

c. *Overseas Military Mail.* On carrier route, 5-digit carrier routes, and 5-digit sacks and trays for overseas military destinations, the Line 1 label information shows, from left to right, ''APO'' or ''FPO,'' followed by ''AE'' (for ZIP Codes within the ZIP Code prefix range 090–098), ''AA'' (for ZIP Codes within the 3-digit ZIP Code prefix 340), or ''AP'' (for ZIP Codes within the 3-digit ZIP Code prefix range 962–966), followed by the destination 5-digit ZIP Code of the mail contained in the sack or tray.

[Revise heading of 1.3 to read as follows:]

1.3 Line 2 (Content Line)

* * * * *

[Revise heading of 1.4 to read as follows:]

1.4 Line 3 (Origin Line)

* * * * *

4.0 PALLET LABELS

* * * * *

[Revise heading of 4.5 to read as follows:]

4.5 Line 1 (Destination Line)

[Revise 4.5 to read as follows:]

Line 1 (destination line) must meet these standards:

a. *Placement.* Line 1 must be the first visible line on the label. It must be completely visible and legible when placed on the pallet. If the pallet label does not provide enough space for all required Line 1 information, the destination ZIP Code may be placed right-justified on the line immediately below the rest of Line 1 and above Line 2 (content line). A standard abbreviation for the destination city name may be used.

b. *Information.* Line 1 must contain only the information specified by standard, including the appropriate destination facility prefix (*e.g.*, ''ADC''). Two zeros may follow 3-digit ZIP Code prefixes used as required by labeling standards.

c. *Overseas Military Mail.* On 5-digit carrier routes and 5-digit pallets for overseas military destinations, the Line 1 label information shows, from left to right, ''APO'' or ''FPO,'' followed by ''AE'' (for ZIP Codes within the ZIP Code prefix range 090–098), ''AA'' (for ZIP Codes within the 3-digit ZIP Code prefix 340), or ''AP'' (for ZIP Codes within the 3-digit ZIP Code prefix range 962–966), followed by the destination 5-digit ZIP Code of the mail contained on the pallet.

[Revise heading of 4.6 to read as follows:]

4.6 Line 2 (Content Line)

* * * * *

[Revise heading of 4.7 to read as follows:]

4.7 Line 3 (Origin Line)

* * * * *

M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

* * * * *

[Revise heading of 1.2 to read as follows:]

1.2 Line 1 (Destination Line)

* * * * *

[Revise 1.2c to read as follows:]

c. *Overseas Military Mail.* On carrier route, 5-digit carrier routes, and 5-digit sacks and trays for overseas military destinations, the Line 1 label information shows, from left to right, ''APO'' or ''FPO,'' followed by ''AE'' (for ZIP Codes within the ZIP Code prefix range 090–098), ''AA'' (for ZIP Codes within the 3-digit ZIP Code prefix 340), or ''AP'' (for ZIP Codes within the 3-digit ZIP Code prefix range 962–966), followed by the destination 5-digit ZIP Code of the mail contained in the sack or tray.

[Revise heading of 1.3 to read as follows:]

1.3 Line 2 (Content Line)

* * * * *

[Change ''STD MACH & IRREG 5D'' *to* ''STD MACH–IRREG 5D'' *in Exhibit 1.3 to read as follows:]*

Class and mailing	CIN	Human-readable content line
* * * * *	*	*
STANDARD MAIL		
* * * * *	*	*
STD Machinable and Irregular Parcels—Presorted		
5-digit sacks	603	STD MACH–IRREG 5D
* * * * *	*	*

[Revise heading of 1.4 to read as follows:]

1.4 Line 3 (Origin Line)

* * * * *

M070 Mixed Classes

* * * * *

M073 Combined Mailings of Standard Mail and Package Services Parcels

1.0 COMBINED MACHINABLE PARCELS—RATES OTHER THAN PARCEL POST OBMC PRESORT, BMC PRESORT, DSCF, AND DDU

* * * * *

[Revise heading of 1.6 to read as follows:]

1.6 Sacking and Labeling

[Revise 1.6 to read as follows:]

Preparation sequence, sack size, and labeling:

a. 5-digit scheme (optional, but required for Standard Mail 3/5 rate eligibility); 10-piece or 20-pound minimum; labeling:

(1) Line 1: L606.

(2) Line 2: ''STD/PSVC MACH 5D SCH.''

b. 5-digit (optional, but required for Standard Mail 3/5 rate eligibility); 10-piece or 20-pound minimum; labeling:

(1) Line 1: 5-digit ZIP Code on parcels (see M031 for overseas military mail).

(2) Line 2: ''STD/PSVC MACH 5D.''

c. ASF (optional; allowed only for mail deposited at an ASF to claim DBMC rate); 10-piece or 20-pound minimum; labeling:

(1) Line 1: L602. DBMC rate eligibility determined by Exhibit E650.5.1 and Exhibit E751.1.3.

(2) Line 2: ''STD/PSVC MACH ASF.''

d. BMC (required); 10-piece or 20-pound minimum; labeling:

(1) Line 1: L601. DBMC rate eligibility determined by Exhibit E650.5.1 and Exhibit E751.1.3.

(2) Line 2: ''STD/PSVC MACH BMC.''

e. Mixed BMC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by L601 Column B information for BMC serving

3-digit ZIP Code prefix of entry post office.

(2) Line 2: ''STD/PSVC MACH WKG.''

* * * * *

M100 First-Class Mail (Nonautomation)

* * * * *

M130 Presorted First-Class Mail

* * * * *

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Traying and Labeling

[Revise 2.2 to read as follows:]

Preparation sequence, tray size, and labeling:

a. 5-digit (optional); full trays (no overflow); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

(2) Line 2: ''FCM LTR 5D MACH.''

b. 3-digit (required); full trays (no overflow), except for one less-than-full tray for each origin 3-digit(s); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''FCM LTR 3D MACH.''

c. AADC (required); full trays (no overflow), with pieces grouped by 3-digit ZIP Code prefix; labeling:

(1) Line 1: L801.

(2) Line 2: ''FCM LTR AADC MACH.''

d. Mixed AADC (required); no minimum, with pieces grouped by AADC; labeling:

(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry office, as shown in L002, Column C.

(2) Line 2: ''FMC LTR MACH WKG.''

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

[Revise heading of 3.1 to read as follows:]

3.1 Packaging and Labeling

[Revise 3.1 to read as follows:]

Except as provided in M020.1.9, packaging is required before traying. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Mailers who prefer that the USPS not automate letter-size pieces must also identify each package with a facing slip marked ''MANUAL ONLY'' or use a ''MANUAL ONLY'' optional endorsement line (see M013).

Preparation sequence, package size, and labeling:

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL); labeling not required for pieces in full 5-digit trays.

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

[Remove current 3.2 and redesignate current 3.3 as new 3.2; revise heading of new 3.2 to read as follows:]

3.2 Traying and Labeling

[Revise 3.2 to read as follows:]

Preparation sequence, tray size, and labeling:

a. 5-digit (required); full trays (no overflow); labeling:

(1) Line 1: city, state, and ZIP Code on packages (see M031 for overseas military mail).

(2) Line 2: ''FCM LTR 5D MANUAL.''

b. 3-digit (required); full trays (no overflow), except for one less-than-full tray for each origin 3-digit(s); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''FCM LTR 3D MANUAL.''

c. ADC (required); full trays (no overflow); labeling:

(1) Line 1: L004.

(2) Line 2: ''FCM LTR ADC MANUAL.''

d. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MANUAL WKG.''

[Revise heading of 4.0 to read as follows:]

4.0 PREPARATION—FLAT-SIZE PIECES

[Revise heading of 4.1 to read as follows:]

4.1 Packaging and Labeling

[Revise 4.1 to read as follows:]

Except as provided in M020.1.9, packaging is required before traying. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Preparation sequence, package size, and labeling:

[Change in 4.1a ''red Label D'' with ''red Label 5''; change in 4.1d ''tan Label MXD'' with ''tan Label X'' to read as follows:]

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

[Remove current 4.2 and redesignate current 4.3 as new 4.2; revise heading of new 4.2 to read as follows:]

4.2 Traying and Labeling

[Revise new 4.2 to read as follows:]

Preparation sequence, tray size, and labeling:

a. 5-digit (required); full trays (no overflow); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

(2) Line 2: ''FCM FLTS 5D NON BC.''

b. 3-digit (required); full trays (no overflow), except for one less-than-full tray for each origin 3-digit(s); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''FCM FLTS 3D NON BC.''

c. ADC (required); full trays (no overflow); labeling:

(1) Line 1: L004.

(2) Line 2: ''FCM FLTS ADC NON BC.''

d. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM FLTS NON BC WKG.''

[Remove current 4.4.]

[Revise heading of 5.0 to read as follows:]

5.0 PREPARATION—PARCELS

[Remove 5.1 and redesignate current 5.2 as new 5.1; revise heading of new 5.1 to read as follows:]

5.1 Packaging and Labeling

[Revise new 5.1 to read as follows:]

Packaging is generally required before sacking. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Packaging is not required for pieces ½ inch thick or more if they are placed in a sack to the same destination to which they would otherwise be packaged (*e.g.*, in a 3-digit sack rather than in a 3-digit package). Preparation sequence, package size, and labeling:

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.
c. ADC (required); 10-piece minimum; pink Label A or OEL.
d. Mixed ADC (required); no minimum; tan Label X or OEL.

[Redesignate current 5.3 as new 5.2; revise heading of new 5.2 to read as follows:]

5.2 Sacking and Labeling

[Revise new 5.2 to read as follows:]

Preparation sequence, sack size, and labeling:
a. 5-digit (required); 10-pound minimum; labeling:
(1) Line 1: city, state, and 5-digit ZIP Code on packages or unpackaged parcels, if applicable (see M031 for overseas military mail).
(2) Line 2: ''FCM PARCELS 5D.''
b. 3-digit (required); 10-pound minimum, except for required origin 3-digit(s); labeling:
(1) Line 1: L002, Column A.
(2) Line 2: ''FCM PARCELS 3D.''
c. ADC (required); 10-pound minimum; labeling:
(1) Line 1: L004.
(2) Line 2: ''FCM PARCELS ADC.''
d. Mixed ADC (required); no minimum; labeling:
(1) Line 1: ''MXD'' followed by city, state, and 3-digit ZIP Code prefix of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.
(2) Line 2: ''FCM PARCELS WKG.''

[Delete current 5.4.]

* * * * *

M200 Periodicals (Nonautomation)

M210 Presorted Periodicals

* * * * *

2.0 PACKAGE PREPARATION

[Revise 2.0 by combining current 2.1 and 2.2 to read as follows:]

Packaging is required before traying or sacking. A package must be prepared when the quantity of addressed pieces for a required presort level reaches the minimum package size. Smaller volumes are not permitted except mixed ADC packages and 5-digit and 3-digit packages prepared under 1.5. Packaging is also subject to M020. Preparation sequence, package size, and labeling:
a. Firm (optional); two-piece minimum; blue Label F or optional endorsement line (OEL).
b. 5-digit (required); six-piece minimum; red Label 5 or OEL; labeling optional for pieces in full 5-digit trays.
c. 3-digit (required); six-piece minimum; green Label 3 or OEL.
d. ADC (required); six-piece minimum; pink Label A or OEL.
e. Mixed ADC (required); no minimum; tan Label X or OEL.

[Revise heading of 3.0 to read as follows:]

3.0 TRAY PREPARATION—LETTER-SIZE PIECES

[Revise introductory text to read as follows:]

Preparation sequence, tray size, and labeling:

* * * * *

[Revise 3.0a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise heading of 4.0 to read as follows:]

4.0 SACK PREPARATION—FLAT-SIZE PIECES AND IRREGULAR PARCELS

[Revise second sentence in introductory text to read as follows:]

* * * For other mailing jobs, preparation sequence, tray size, and labeling:

* * * * *

[Revise 4.0a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

M220 Carrier Route Periodicals

* * * * *

2.0 PACKAGE PREPARATION

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Packaging and Labeling

[Revise 2.4 to read as follows:]

Preparation sequence, package size, and labeling:
a. Firm (optional); two-piece minimum; blue Label F or optional endorsement line (OEL).
b. Carrier route (optional, but required for rate eligibility); six-piece minimum (fewer permitted under 1.5); labeling required (facing slip, OEL, or carrier route information line) except for packages placed in a direct carrier route tray or sack.

[Revise heading of 3.0 to read as follows:]

3.0 PREPARATION—LETTER-SIZE PIECES

[Revise introductory text to read as follows:]

Preparation sequence, tray size, and labeling:

* * * * *

[Revise 3.0a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise heading of 4.0 to read as follows:]

4.0 PREPARATION—FLAT-SIZE PIECES AND IRREGULAR PARCELS

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 4.0a(1) to read as follows:]

* * * * *

(1) Line 1: use city, state and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

* * * * *

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

* * * * *

2.2 Traying and Labeling

* * * * *

[Revise 2.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on mail (see M031 for overseas military mail).

* * * * *

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

[Revise heading of 3.1 to read as follows:]

3.1 Packaging and Labeling

[Revise 3.1 to read as follows:]

Except as provided in M020.1.9, packaging is required before traying. A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Mailers who prefer that the USPS not automate letter-size pieces must also identify each package with a facing slip marked ''MANUAL ONLY'' or use a ''MANUAL ONLY'' optional endorsement line (see M013). Preparation sequence, package size, and labeling:

[Change in 3.1a ''red Label D'' to ''red Label 5''; change in 3.1d ''tan Label MXD'' to ''tan Label X'';]

[Remove current 3.2 and redesignate current 3.3 as new 3.2.]

* * * * *

3.2 Traying and Labeling

* * * * *

[Revise 3.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise 4.0 by moving mailing standards for irregular parcels to new 5.0; redesignate current 5.0 as new 6.0; revise current 4.0 to read as follows:]

4.0 PREPARATION—FLAT-SIZE PIECES

4.1 Required Packaging

Except as provided in 4.3, packaging is required before sacking. A package must be prepared when the quantity of addressed pieces for a required presort level reaches the required minimum package size. Smaller volumes are not permitted except for mixed ADC packages.

4.2 Packaging and Labeling

Preparation sequence, package size, and labeling:

a. 5-digit (required); 17-piece minimum, optional 10-to 16-piece minimum (one consistent minimum required for a mailing job); red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

4.3 Loose Packing

District managers may authorize loose packing of unpackaged pieces to fill Number 3 sacks if no pieces in a sack would be more finely sorted if packaged. Pieces must be faced and packed to remain oriented in transit. The total weight of sacks containing such pieces may not exceed 70 pounds. Requests for loose packing must be made through the post office of mailing.

4.4 Required Sacking

Except as provided in 4.5, a sack, or a letter tray under M033, must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum. Pieces weighing more must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must apply either one of these methods:

(1) The minimum that applies to the average piece weight for the entire mailing is used. The net weight of the mailing is divided by the number of pieces and the resulting average single-piece weight is used to determine whether the 125-piece or 15-pound minimum applies.

(2) The actual piece count or mail weight for each sack is used, if documentation can be provided with the mailing that shows for each sack the number of pieces and the total weight.

c. The accompanying postage statement must indicate whether the 125-piece minimum, the 15-pound minimum, or both minimums are applied.

4.5 Drop Shipment

A mailer using Priority Mail or Express Mail to dropship Standard Mail flat-size pieces may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

4.6 Sacking and Labeling

Preparation sequence, sack size, and labeling:

a. 5-digit (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

(2) Line 2: ''STD FLTS 5D NON BC.''

b. 3-digit (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD FLTS 3D NON BC.''

c. Origin 3-digit(s) (required) and entry 3-digit(s) (optional); one-package minimum (for origin and entry); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD FLTS 3D NON BC.''

d. ADC (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L004.

(2) Line 2: ''STD FLTS ADC NON BC.''

e. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office as shown in L004; if placed on an ASF or BMC pallet under option in M045.3.2, L802.

(2) Line 2: ''STD FLTS NON BC WKG.''

#*[Redesignate current 5.0 as new 6.0 and add new 5.0 to read as follows:]*

5.0 PREPARATION—IRREGULAR PARCELS

5.1 Required Packaging

Except as provided in 5.3 and 5.5, packaging is required before sacking. A package must be prepared when the quantity of addressed pieces for a required presort level reaches the required minimum package size. Smaller volumes are not permitted except for mixed ADC packages and packages prepared under 5.4.

5.2 Packaging and Labeling

Preparation sequence, package size, and labeling:

a. 5-digit (required); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

5.3 Packaging Exceptions

Packaging is not required for irregular parcels under any of these conditions:

a. The parcels are ½ inch thick or greater and placed in a sack to the same destination to which they would otherwise be packaged (*e.g.*, in a 3-digit sack rather than a 3-digit package).

b. The parcels are so large that 10 or fewer fill a sack.

c. The parcels are in a 5-digit scheme or 5-digit sack containing both machinable and irregular parcels. Sacks containing both machinable and irregular parcels may not be prepared to other presort levels.

5.4 Commingling Irregular Parcel Mailings

Business Mailer Support (BMS) (see G043 for address) may authorize the commingling of several permit imprint mailings of irregular parcels to achieve a finer presort if the payment of proper postage can be documented. BMS may waive minimum quantity standards for preparation of 5-digit and 3-digit packages if doing so results in a finer preparation of at least 50% of the mail.

5.5 Loose Packing

District managers may authorize loose packing of unpackaged pieces to fill Number 3 sacks if no pieces in a sack would be more finely sorted if packaged. Pieces must be faced and packed to remain oriented in transit. The total weight of sacks containing such pieces may not exceed 70 pounds.

Requests for loose packing must be made through the post office of mailing.

5.6 Required Sacking

Except as provided in 5.7, a sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

a. For identical-weight pieces, a single-piece weight of 1.92 ounces (0.12 pound) results in 125 pieces weighing 15 pounds. Identical-weight pieces weighing 1.92 ounces (0.12 pound) or less must be prepared using the 125-piece minimum. Pieces weighing more must be prepared using the 15-pound minimum.

b. For nonidentical-weight pieces, mailers must apply either one of these methods:

(1) The minimum that applies to the average piece weight for the entire mailing is used. The net weight of the mailing is divided by the number of pieces and the resulting average single-piece weight is used to determine whether the 125-piece or 15-pound minimum applies.

(2) The actual piece count or mail weight for each sack is used, if documentation can be provided with the mailing that shows for each sack the number of pieces and the total weight.

c. The accompanying postage statement must indicate whether the 125-piece minimum, the 15-pound minimum, or both minimums are applied.

5.7 Drop Shipment

A mailer using Priority Mail or Express Mail to dropship Standard Mail irregular parcels may prepare sacks containing fewer than 125 pieces or less than 15 pounds of mail.

5.8 Sacking and Labeling

Preparation sequence, sack size, and labeling:

a. 5-digit scheme (optional), as applicable:

(1) Irregular parcels: 125-piece or 15-pound minimum; labeling for Line 1, L606; for Line 2, ''STD IRREG 5D SCHEME'' or ''STD IRREG 5D SCH.''

(2) Commingled machinable and irregular parcels: no minimum; labeling for Line 1, L606; for Line 2, ''STD MACH–IRREG 5D SCH.''

b. 5-digit (required), as applicable:

(1) Irregular parcels: 125-piece or 15-pound minimum; labeling for Line 1, city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail); for Line 2, ''STD IRREG 5D.''

(2) Commingled machinable and irregular parcels: required at 10 pounds; labeling for Line 1, city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail); for Line 2, ''STD MACH–IRREG 5D.''

c. 3-digit (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD IRREG 3D.''

d. Origin 3-digit(s) (required) and entry 3-digit(s) (optional); one-package minimum (for origin and entry); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''STD IRREG 3D.''

e. ADC (required); 125-piece or 15-pound minimum; labeling:

(1) Line 1: L004.

(2) Line 2: ''STD IRREG ADC.''

f. Mixed ADC (required); no minimum; labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office as shown in L604.

(2) Line 2: ''STD IRREG WKG.''

6.0 PREPARATION—MACHINABLE PARCELS

* * * * *

[Change heading of redesignated 6.2 to read as follows:]

6.2 Sacking and Labeling

* * * * *

M620 Enhanced Carrier Route Standard Mail

* * * * *

3.0 PREPARATION—LETTER-SIZE PIECES

3.1 Required Tray Preparation

* * * * *

[Revise 3.1a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise 3.1b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Alternative Line 2 Information

For trays containing nonbarcoded or nonmachinable letter-size pieces, these Line 2 label designations are used in place of ''BC'':

a. Trays containing nonbarcoded machinable pieces: ''MACH.''

b. Trays containing nonmachinable pieces: ''MAN.''

c. Trays containing simplified address pieces: ''MAN.''

[Delete current 3.3 and 3.4.]

4.0 PREPARATION—FLATS

* * * * *

4.2 Sack Preparation

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 4.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise 4.2c(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

5.0 PREPARATION—IRREGULAR PARCELS

* * * * *

5.2 Sack Preparation

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 5.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise 5.2b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

M700 Package Services

M710 Parcel Post

* * * * *

2.0 DSCF RATE

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 DSCF Sacking and Labeling

* * * * *

[Revise 2.2d to read as follows:]

d. 5-digit sack labeling: Line 1, use city, state, and 5-digit ZIP Code on parcels (see M031 for overseas military mail); for Line 2, ''PSVC PARCELS 5D.''

* * * * *

3.0 DDU RATE

* * * * *

[Revise 3.0e(2) to read as follows:]

(2) 5-digit sack labeling: Line 1, use city, state, and 5-digit ZIP Code on

parcels (see M031 for overseas military mail); for Line 2, ''PSVC PARCELS 5D.''

* * * * *

M720 Bound Printed Matter

* * * * *

M722 Presorted Bound Printed Matter

* * * * *

2.0 REQUIRED PREPARATION—FLATS

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Packaging and Labeling

[Revise 2.2 to read as follows:]

Packaging is required before sacking. Preparation sequence and labeling:

a. 5-digit (required); red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); green Label 3 or OEL.

c. ADC (required); pink Label A or OEL.

d. Mixed ADC (required); tan Label X or OEL.

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Sacking and Labeling

[Revise 2.4 to read as follows:]

Preparation sequence and labeling:

a. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

(2) Line 2: ''PSVC FLTS 5D NON BC.''

b. 3-digit (required); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''PSVC FLTS 3D NON BC.''

c. SCF (optional); labeling:

(1) Line 1: L005.

(2) Line 2: ''PSVC FLTS SCF NON BC.''

d. ADC (required); labeling:

(1) Line 1: L004.

(2) Line 2: ''PSVC FLTS ADC NON BC.''

e. Mixed ADC (required); labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Delete current 2.5.]

3.0 REQUIRED PREPARATION—IRREGULAR PARCELS WEIGHING LESS THAN 10 POUNDS

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Packaging and Labeling

[Revise 3.2 to read as follows:]

Except as provided in 3.1, packaging is required before sacking. Preparation sequence and labeling:

a. 5-digit (required); red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); green Label 3 or OEL.

c. ADC (required); pink Label A or OEL.

d. Mixed ADC (required); tan Label X or OEL.

3.3 Required Sacking

[Revise 3.3 by adding current 3.6 before last sentence of introductory paragraph to read as follows:]

* * * Sacking is not required for 5-digit packages when prepared for and entered at DDU rates. Such packages may be bedloaded and may weigh up to 40 pounds. Sacking is also subject to these conditions:

* * * * *

[Revise heading of 3.4 to read as follows:]

3.4 Sacking and Labeling

[Revise 3.4 to read as follows:]

Preparation sequence and labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on parcels (see M031 for overseas military mail).

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit (required); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. SCF (optional); labeling:

(1) Line 1: L005.

(2) Line 2: ''PSVC IRREG SCF.''

e. ADC (required); labeling:

(1) Line 1: L004.

(2) Line 2: ''PSVC IRREG ADC.''

f. Mixed ADC (required); labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''PSVC IRREG WKG.''

[Delete 3.5 and 3.6.]

4.0 REQUIRED PREPARATION—IRREGULAR PARCELS WEIGHING 10 POUNDS OR MORE

* * * * *

4.2 Required Sacking

[Revise 4.2 by adding current 4.5 to end of 4.2 to read as follows:]

* * * Sacking is not required for 5-digit packages when prepared for and entered at DDU rates. Such packages may be bedloaded and may weigh up to 40 pounds.

[Revise heading of 4.3 to read as follows:]

4.3 Sacking and Labeling

[Revise 4.3 to read as follows:]

Preparation sequence and labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code destination on parcels (see M031 for overseas military mail).

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit (required); labeling:

(1) Line 1: L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. SCF (optional); labeling:

(1) Line 1: L005.

(2) Line 2: ''PSVC IRREG SCF.''

e. ADC (required); labeling:

(1) Line 1: L004.

(2) Line 2: ''PSVC IRREG ADC.''

f. Mixed ADC (required); labeling:

(1) Line 1: ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''PSVC IRREG WKG.''

[Delete 4.4 and 4.5.]

5.0 REQUIRED PREPARATION—MACHINABLE PARCELS

[Revise heading of 5.1 to read as follows:]

5.1 DBMC Rates Not Claimed—Required Sacking

* * * * *

[Revise heading of 5.2 to read as follows:]

5.2 DBMC Rates Not Claimed—Sacking and Labeling

[Revise 5.2 by combining with current 5.3 to read as follows:]

Preparation sequence, labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on parcels (see M031 for overseas military mail).

(2) Line 2: ''PSVC MACH 5D.''

c. BMC (required); labeling:

(1) Line 1: L601.

(2) Line 2: ''PSVC MACH BMC.''

d. Mixed BMC (required); labeling:

(1) Line 1: ''MXD'' followed by L601 Column B information, for BMC serving 3-digit ZIP Code prefix of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

[Redesignate current 5.4, 5.5, and 5.6 as new 5.3, 5.4, and 5.5, respectively.]

[Revise heading of new 5.3 to read as follows:]

5.3 DMBC Rates—Required Sacking

* * * * *

[Revise heading of new 5.4 to read as follows:]

5.4 DBMC Rates—Sacking and Labeling

[Revise 5.4 by combining with new 5.5 to read as follows:]

Preparation sequence and labeling:

a. 5-digit scheme (optional); labeling:

(1) Line 1: L606.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit (required); labeling:

(1) Line 1: city, state, and 5-digit ZIP Code on parcels (see M031 for overseas military mail).

(2) Line 2: ''PSVC MACH 5D.''

c. ASF (optional, allowed only for mail deposited at an ASF to claim DBMC rate); labeling:

(1) Line 1: L602. DBMC rate eligibility determined by E752 and Exhibit E751.1.3.

(2) Line 2: ''PSVC MACH ASF.''

d. BMC (required); labeling:

(1) Line 1: L601. DBMC rate eligibility determined by E752 and Exhibit E751.1.3.

(2) Line 2: ''PSVC MACH BMC.''

e. Mixed BMC (required); labeling:

(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code prefix of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

M723 Carrier Route Bound Printed Matter

* * * * *

[Revise heading of 2.0 to read as follows:]

2.0 PREPARATION—FLATS

* * * * *

2.3 Sack Preparation

* * * * *

[Revise 2.3a to read as follows:]

a. Carrier route: required; for Line 1, use city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise heading of 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS WEIGHING LESS THAN 10 POUNDS

* * * * *

3.3 Sack Preparation

* * * * *

[Revise 3.3a to read as follows:]

a. Carrier route: required; for Line 1, use city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

[Revise heading of 4.0 to read as follows:]

4.0 PREPARATION—IRREGULAR PARCELS WEIGHING 10 POUNDS OR MORE

* * * * *

[Revise heading of 5.0 to read as follows:]

5.0 PREPARATION—MACHINABLE PARCELS

* * * * *

M730 Media Mail

* * * * *

2.0 PREPARATION—FLATS

[Revise heading of 2.1 to read as follows:]

2.1 Required Packaging

[Revise second sentence in 2.1 to read as follows:]

* * * Smaller volumes are not permitted except for mixed ADC packages. * * *

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Packaging and Labeling

[Revise 2.2 to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

[Revise heading of 2.3 to read as follows:]

2.3 Required Sacking

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 2.4a(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

3.0 PREPARATION—IRREGULAR PARCELS

[Revise heading of 3.1 to read as follows:]

3.1 Required Packaging

[Revise the first sentence of 3.1 to read as follows:]

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. * * *

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Packaging and Labeling

[Revise 3.2 to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

[Revise heading of 3.3 to read as follows:]

3.3 Required Sacking

* * * * *

[Revise heading of 3.4 to read as follows:]

3.4 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 3.4b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

4.0 PREPARATION—MACHINABLE PARCELS

[Revise heading of 4.1 to read as follows:]

4.1 Required Sacking

* * * * *

[Revise heading of 4.2 to read as follows:]

4.2 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 4.2b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on parcels (see M031 for overseas military mail).

* * * * *

M740 Library Mail

* * * * *

2.0 PREPARATION—FLATS

[Revise heading of 2.1 to read as follows:]

2.1 Required Packaging

[Revise second sentence in 2.1 to read as follows:]

* * * Smaller volumes are not permitted except for mixed ADC packages. * * *

* * * * *

[Revise heading of 2.2 to read as follows:]

2.2 Packaging and Labeling

[Revise 2.2 to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

[Revise heading of 2.3 to read as follows:]

2.3 Required Sacking

* * * * *

[Revise heading of 2.4 to read as follows:]

2.4 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence, sack size, and labeling:

* * * * *

[Revise 2.4a(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on packages (see M031 for overseas military mail).

* * * * *

3.0 PREPARATION—IRREGULAR PARCELS

[Revise heading of 3.1 to read as follows:]

3.1 Required Packaging

[Revise the first sentence of 3.1 to read as follows:]

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted except for mixed ADC packages. Packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. * * *

* * * * *

[Revise heading of 3.2 to read as follows:]

3.2 Packaging and Labeling

[Revise 3.2 to read as follows:]

Preparation sequence, package size, and labeling:

a. 5-digit (optional, but required for 5-digit rate eligibility); 10-piece minimum; red Label 5 or optional endorsement line (OEL).

b. 3-digit (required); 10-piece minimum; green Label 3 or OEL.

c. ADC (required); 10-piece minimum; pink Label A or OEL.

d. Mixed ADC (required); no minimum; tan Label X or OEL.

[Revise heading of 3.3 to read as follows:]

3.3 Required Sacking

* * * * *

[Revise heading of 3.4 to read as follows:]

3.4 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 3.4b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on parcels (see M031 for overseas military mail).

* * * * *

4.0 PREPARATION—MACHINABLE PARCELS

[Revise heading of 4.1 to read as follows:]

4.1 Required Sacking

* * * * *

[Revise heading of 4.2 to read as follows:]

4.2 Sacking and Labeling

[Revise introductory text to read as follows:]

Preparation sequence and labeling:

* * * * *

[Revise 4.2b(1) to read as follows:]

(1) Line 1: use city, state, and 5-digit ZIP Code on parcels (see M031 for overseas military mail).

* * * * *

M800 All Automation Mail

* * * * *

M820 Flat-Size Mail

* * * * *

2.0 FIRST-CLASS MAIL—REQUIRED PACKAGE-BASED PREPARATION

[Revise heading of 2.1 to read as follows:]

2.1 Packaging and Labeling

[Change in 2.1a ''red Label D'' to ''red Label 5''; change in 2.1d ''tan Label MXD'' to ''tan Label X''.]

[Revise heading of 2.2 to read as follows:]

2.2 Traying and Labeling

* * * * *

[Revise 2.2a(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on package (see M032 for overseas military mail).

* * * * *

4.0 PERIODICALS

[Revise heading of 4.1 to read as follows:]

4.1 Packaging and Labeling

[Change in 4.1b ''red Label D'' to ''red Label 5''; change in 4.1e ''tan Label MXD'' to ''tan Label X''.]

[Revise heading of 4.2 to read as follows:]

3.2 Sacking and Labeling

* * * * *

[Revise 4.2b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M032 for overseas military mail).

* * * * *

5.0 STANDARD MAIL

[Revise heading of 5.1 to read as follows:]

5.1 Packaging and Labeling

[Change in 5.1b ''red Label D'' to ''red Label 5''; change in 5.1e ''tan Label MXD'' to ''tan Label X''.]

* * * * *

[Revise heading of 5.3 to read as follows:]

5.3 Sacking and Labeling

* * * * *

[Revise 5.3b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M032 for overseas military mail).

* * * * *

6.0 BOUND PRINTED MATTER

[Revise heading of 6.1 to read as follows:]

6.1 Packaging and Labeling

[Change in 6.1b ''red Label D'' to ''red Label 5''; change in 6.1e ''tan Label MXD'' to ''tan Label X''.]

[Revise heading of 6.2 to read as follows:]

6.2 Sacking and Labeling

* * * * *

[Revise 6.2b(1) to read as follows:]

(1) Line 1: city, state, and 5-digit ZIP Code on packages (see M032 for overseas military mail).

* * * * *

M900 Advanced Preparation Options for Flats

* * * * *

M950 Co-Packaging Automation Rate and Presorted Rate Pieces

1.0 FIRST-CLASS MAIL

* * * * *

1.2 Package Preparation

[Change in 1.2a ''red Label D'' to ''red Label 5''; change in 1.2d ''tan Label MXD'' to ''tan Label X''.]

* * * * *

2.0 PERIODICALS

* * * * *

2.2 Package Preparation

[Change in 2.2c ''red Label D'' to ''red Label 5''; change in 2.2f ''tan Label MXD'' to ''tan Label X''.]

* * * * *

3.0 STANDARD MAIL

* * * * *

3.2 Package Preparation

[Change in 3.2b all instances of ''red Label D'' to ''red Label 5''; change in 3.2e ''tan Label MXD'' to ''tan Label X''.]

* * * * *

4.0 BOUND PRINTED MATTER

* * * * *

4.2 Package Preparation

[Change in 4.2b ''red Label D'' to ''red Label 5''; change in 4.2e ''tan Label MXD'' to ''tan Label X''.]

An appropriate amendment to 39 CFR 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 03–21043 Filed 8–15–03; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AZ NV–095–NEGDECb; FRL–7534–9]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Commercial/Industrial Solid Waste Incinerator Units; Arizona; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the negative declarations submitted by various local air pollution control agencies in Arizona and Nevada. Each negative declaration certifies that commercial/industrial solid waste incinerator units, which are subject to the requirements of sections 111(d) and 129 of the Clean Air Act, do not exist within the relevant agency's air pollution control jurisdiction.

DATES: Comments must be received in writing by September 17, 2003.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947–4124.

SUPPLEMENTARY INFORMATION: This proposal addresses Clean Air Act section 111(d)/129 negative declarations submitted by various local air pollution control agencies in Arizona and Nevada, certifying that commercial/industrial solid waste incinerator units do not exist within their air pollution control jurisdictions. 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. If no adverse comments are received in response to this action, no further activity will be 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. EPA will not institute a second comment period. Any parties interested in commenting on this action should 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.

Dated: July 8, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 03–21055 Filed 8–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7544–5]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Celtor Chemical Works Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region IX is issuing a Notice of Intent to Delete the Celtor Chemical Works Superfund Site (Site) located in Hoopa, California, from the National Priorities List (NPL) and requests public comments on this Notice of Intent to Delete. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, is found at appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA, Hoopa Valley Tribe and the State of California, through the California Department of Toxic Substances Control (DTSC), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under CERCLA.

DATES: Comments concerning this Site must be received by September 17, 2003.

ADDRESSES: Written comments should be addressed to: Beatriz Bofill, Remedial Project Manager, U.S. EPA, Region IX, SFD–7–2, 75 Hawthorne Street, San Francisco, CA, 94105–3901, (415) 972–3260 or (800) 231–3075.

Information Repositories: Comprehensive information on this Site

is available through the Region IX public docket which is available for viewing at the EPA Region IX Superfund Records Center, 95 Hawthorne Street, San Francisco CA, 94105–3901, (415) 536–2000 (Monday through Friday 8 a.m. to 5 p.m.); Hoopa Valley Tribal EPA, P.O. Box 1348, Hwy 96, Hoopa, CA 95546, (530) 625–5515.

FOR FURTHER INFORMATION CONTACT: Beatriz Bofill, Remedial Project Manager, U.S. EPA, Region IX, SFD–7–2, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 972–3260 or (800) 231–3075; or Hector Aguirre, Community Involvement Coordinator, U.S. EPA, Region IX, SFD–3, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 972–3238 or (800) 231–3075.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion

I. Introduction

The U.S. EPA Region IX is publishing this Notice of Intent to Delete the Celtor Chemical Works Superfund Site from the NPL and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan, which EPA promulgated pursuant to Section 105 of CERCLA, as amended. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment, and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial action in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is following specifically for this Site. Section IV discusses the Celtor Chemical Works Superfund Site and demonstrates how it meets the deletion criteria.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA, in consultation with the State and the Tribe, shall consider whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required; or

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the Hazard Ranking System (40 CFR 300.425(e)(3)).

III. Deletion Procedures

The following procedures apply to deletion of this Site:

(1) All remedial action has been implemented as is documented in the Final Close Out Report (FCOR), dated September 29, 1989.

(2) The EPA consulted with the State of California and the Hoopa Valley Indian Tribe on the deletion of the Site from the NPL prior to developing this Notice of Intent to Delete.

(3) The Hoopa Valley Indian Tribe concurred with deletion of the Site from the NPL.

(4) The State of California concurred with deletion of the Site from the NPL.

(5) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete.

(6) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments before making a final decision to delete. If comments are received, EPA will prepare a Responsiveness Summary to address those comments. The Responsiveness Summary will be available for review in the Deletion Docket. The Deletion Docket is a compilation of documents containing all pertinent information supporting the deletion recommendation.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office in the local information repository and in the Region IX Superfund Records Center.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Background

The Celtor Chemical Works Superfund Site is a 2.5 acre parcel of mountainous terrain located at the northern end of the Hoopa Valley Indian Reservation in Humboldt County California, about 2 miles north of the town of Hoopa. The property on which the Site is located is owned by the Hoopa Valley Indian Tribe. The Tribe's land is held in trust by the U.S. Bureau of Indian Affairs (BIA). The land use for the area surrounding the Site is rural residential. A cattle grazing pasture is located to the west of the former plant site. A gravel bar on the Trinity River at the northern end of the Site provides access to a popular recreational fishing site.

In 1958, BIA leased the land to the Celtor Chemical Corporation on behalf of the Tribe. The Celtor Chemical Corporation processed sulfide ore taken from the Copper Bluff Mine. The plant, known as the Celtor Chemical Works Mill, is believed to have used dissolved air flotation to extract copper, zinc, and precious metals from the ore. The ore concentrates were trucked off-site for further processing. Some mine tailings were stockpiled in the area of the plant site; however, most of the tailings were presumably sluiced down a drainage ditch to the Trinity River. The tailings may have been the cause of the numerous fish kills for which the California Department of Fish and Game have cited the Celtor Chemical Corporation.

In 1960 the Celtor Chemical Corporation became delinquent in its royalty payments to the Hoopa Valley Indian Tribe. By 1962, Celtor ceased operations and in March 1993, the BIA, as trustee for the Tribe, canceled the leases of both the Copper Bluff Mine and the Celtor Chemical Works Mill.

After milling operations ceased, a very large pile of tailings was reported to have been left standing on a sand and gravel bar between the drainage ditch and the Trinity River, along with the tailings that were known to have been

left at the plant site. Flooding in 1964 reportedly washed all traces of tailings that had been left on the sand and gravel bar into the Trinity River.

Acid runoff from the Site continued to leach the remaining tailings in the plant area. Elevated levels of metals in Site soils were identified in samples collected by the California Department of Health Services in July 1981. In August of the same year, EPA received a Notification of a Hazardous Waste Site under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) from the State. The Site was placed on the California State Priority List in April 1982, then included on the National Priorities List (NPL) in September 1983.

Initial Response

In December, 1983, EPA completed a Removal Action (also called the initial remedial measure) in which all visibly contaminated material (tailings, non-concrete structures, and a portion of the adjacent pasture) were removed. Approximately 1,400 cubic yards of contaminated material were taken to the IT Corporation Class I hazardous landfill in Benicia, California.

Remedial Investigation and Feasibility Study (RI/FS)

The Remedial Investigation/Feasibility Study was completed on June 28, 1985, and a Record of Decision (ROD) was signed by the Regional Administrator on September 30, 1985, which selected excavation and off-site disposal of the remaining contaminated soils.

Remedy Selection

The ROD for the Celtor Chemical Works Site was signed on September 30, 1985. The primary human health threats posed at the Site were (1) direct contact with soils contaminated with arsenic, copper, cadmium and lead, and (2) consumption of surface water runoff from the Site or in the drainage ditch, which sometimes exceeded Maximum Contaminant Levels for copper, iron, lead and zinc. The remedial action objective was to prevent human exposure to soil and water contaminated with arsenic, copper, cadmium, zinc, mercury, selenium, cyanide and lead at concentrations that may pose a public health or environmental threat.

The remedial actions of the 1985 ROD were: demolition and removal of structures, excavation of soils contaminated above action levels from all Site areas, import clean fill as necessary, regrade and vegetate the Site, and install security fencing to protect new vegetation. No groundwater treatment was necessary because the aquifer was not contaminated.

Following signature, the ROD was amended twice. The first amendment corrected an error in the copper action level and the second amendment added additional standards for mercury, selenium, and cyanide in soils. The additional cleanup standards were added as precautionary measures; subsequent sampling showed all three metals to be below action levels.

Remedy Implementation

In August 1986, EPA entered into an interagency agreement (IAG) with the U.S. Army Corps of Engineers for the remedial design. The Corps retained Aqua Resources, Inc. of Berkeley to plan the remedial action.

The remedial design was completed by Aqua Resources, and approved by EPA on June 9, 1987. The design plan was divided into six areas designated A–F to be excavated to various depths. After excavation, soil samples were to be taken at designated grid points for all the contaminants of concern. It was estimated that 3,220 yards of soil and 890 tons of concrete were to be removed and transported to the Envirosafe Services RCRA approved Class I Landfill in Grandview, Idaho. Environmental Health Research and Testing, Inc. (EHRT) was contracted to carry out the remedial action work. Shortly into the remediation, EHRT submitted a Value Engineering Change Proposal (VECP) to perform deeper and more thorough sampling to reduce the volume of soils excavated. This change was accepted and decreased the actual volume of soil excavated and transported to the Idaho Class I landfill to 1,163 cubic yards. Another post-design change was in the sampling depth of the concrete.

On December 9, 1987 the Site was closed down for the winter season, and activities resumed again on May 11, 1988. All backfilling and revegetation was completed on October 14, 1988, marking the beginning of a one year post-remedial maintenance period.

At any location where contaminants were detected above action levels, additional soil was excavated and removed to the approved off-site landfill. The removal of contaminated material and subsequent confirmatory sampling of remaining on-site soils ensured that all contamination was removed from the Site according to the guidelines set forth in the Quality Assurance Project Plan (QAPP). On February 20, 1989, the Corps sent the Final Technical Report to EPA describing all of the construction activities and the sampling data.

Operation and Maintenance

The operation and maintenance (O&M) was performed for a one-year period by the U.S. Army Corps of Engineers. O&M efforts included monthly site visits to inspect for evidence of erosion and problems with revegetation, and maintenance of the perimeter fence.

Five-Year Review

The initial Five Year Review conducted in 1993 found the Site to be in good condition, with a healthy cover of vegetation and no evidence of erosion. A wood-staked wire fence had been constructed around the pasture which had been remediated during the remedial action. The 1993 review concluded that the Site required little or no maintenance. However, the Hoopa Valley Indian Tribe subsequently raised concerns about residual contamination remaining at the Site. On September 20, 1995, EPA collected 14 biased samples from the Site at the request of the Hoopa Tribe. Samples were collected from three distinct areas of the Site, including the former facility hillside, the access road leading down to the river, and the gravel bar between the drainage ditch and the Trinity River where it was reported a large pile of mine tailings had once stood before they were washed away by the 1964 flood. Of the 14 samples, 4 samples had levels of contaminants above the ROD clean-up goals.

On April 22, 1996, EPA's Emergency Response Team performed additional, more extensive sampling at the Site to verify that the cleanup was complete. A total of 26 soil and sediment samples were collected and analyzed by screening with the x-ray fluorescence (XRF) spectrometer, and six soil samples were sent to a lab for confirmatory analysis. Soils were also analyzed for pH. Hillside soil samples from the former plant site contained minimal levels of copper, and traces of copper were also found in the river access road cut area and the drainage ditch but samples at both sites were well below action levels for the Site. No detectable contamination was found in samples collected from the borrow pit. However, analysis of samples collected from stained areas on the gravel bar indicated these sediments may have levels of copper, lead and arsenic in excess of the cleanup level.

Since 1996 no stained sediments have been observed on the gravel bar by EPA or the Tribe. The gravel bar, hillside, and gully that connects the Site to the Trinity River were sampled in 2002. No Contaminants of Concern (COCs) were

found in concentrations above ROD cleanup goals.

A Second Five-Year Review was conducted in August of 2001. The review concluded that the Site was not currently a threat to human health and the environment, but that additional data was needed to determine if the Site posed a future risk. The Review concluded that all items of concern would be resolved before delisting could occur.

EPA, with support from the Tribal Environmental Protection Agency (TEPA), conducted a comprehensive unbiased sampling event on May 28, 2003. EPA sampled the hillside, drainage ditch adjacent to the hillside, and gully that connects the Site to the Trinity River. A total of 38 soil samples were taken and 4 surface water samples were taken. The laboratory results from the sampling indicated that all sampled constituents are below the levels established in the ROD.

These results have been reviewed by the Region IX EPA toxicologist who concurs that the Site has met soil action levels established in the ROD, and that the Site does not pose an unacceptable risk to human health or the environment from the COCs based upon EPA's current guidance.

EPA has determined that all appropriate response actions for the COCs have been implemented, and the Site is available for unrestricted use. Therefore, no more Five-Year Reviews need to be conducted at the Site.

Community Involvement

During the week of August 4, 2003, a fact sheet was mailed out to tribal members notifying them of EPAs intent to delete the site from the NPL. In addition to the fact sheet, an announcement for a community meeting was published in a local paper on August 5, 2003. The community meeting is scheduled for August 13, 2003. Members of the community will be invited to ask questions and make formal comments. The Deletion Docket which contains the documents EPA relied on for its recommendation to delete the Site from the NPL is available to the public in the information repositories.

Applicable Deletion Criteria/State Concurrence/Tribal Concurrence

All the completion requirements for this Site have been met as described in the FCOR dated September 28, 1989. The NPL provides that a site is eligible for deletion where ''all appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate,'' and where ''responsible parties or other parties have implemented all appropriate response actions required.''

EPA, with the concurrence of the Hoopa Valley Indian Tribe through the Tribal EPA on November 26, 2003 and the State of California through its Department of Toxic Substances Control on July 25, 2003, and finds that these criteria for deletion of the Site have been met. Consequently, EPA is proposing deletion of the Celtor Chemical Works Superfund Site from the NPL.

Dated: August 7, 2003.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 03–20778 Filed 8–15–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[IB Docket No. 02–364; DA 03–2229]

Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of extension of comment period.

SUMMARY: On February 5, 2003, the Federal Communications Commission released an order and notice of proposed rulemaking seeking comment on the possibility of revising the spectrum sharing plan among non-geostationary satellite orbit mobile satellite service systems operating in the 1.6/2.4 GHz bands. In this action, the Federal Communications Commission denies a request to extend the deadline by two months for filing comments in this rulemaking proceeding. Nevertheless, because of the operation of § 1.46 of the Federal Communications Commission's rules, which automatically extends the time for filing comments until two business days after the Commission denies a timely-filed motion for extension of time, the Commission adjusts the comment date and reply comment date to provide clarity to the parties and to provide a full two weeks between the time for filing comments and the time for filing reply comments.

DATES: Comments were due on or before July 11, 2003. Reply Comments were due on or before July 25, 2003.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: James Ball, Chief, or Breck Blalock, Deputy Chief, Policy Division, International Bureau, (202) 418–1460.

SUPPLEMENTARY INFORMATION:

1. On February 5, 2003, the Federal Communications Commission released an order and notice of proposed rulemaking (Notice) among other things seeking comment on the possibility of revising the spectrum sharing plan among non-geostationary satellite orbit mobile satellite service systems operating in the 1.6/2.4 GHz bands. (*See* 68 FR 33666, June 5, 2003). On June 30, 2003, Globalstar L.P. (GLP or Globalstar) filed a request for extension of time (GLP Request) requesting the Commission to extend the comment and reply comment filing deadlines in this proceeding for two months to September 8, 2003, and September 29, 2003, respectively. ICO Global Communications (Holdings) Limited (ICO) and The Official Creditors' Committee of Globalstar, L.P. (the Creditors) each filed documents in support of GLP's request. Iridium Satellite LLC (Iridium) filed in opposition to GLP's request.

2. GLP asserts that two events have occurred since release of the Notice in this proceeding that warrant grant of an extension of time. First, GLP states that it has filed an emergency application for review and request for stay of an International Bureau order canceling GLP's 2 GHz MSS license. According to GLP, a Commission decision regarding whether to revise the Big LEO band plan and to assign more or less spectrum to Globalstar and Iridium or to reallocate some Big LEO spectrum to another service must necessarily be affected by the amount of second generation spectrum, if any, that is available to GLP in the 2 GHz MSS band. Second, GLP states that the U.S. Bankruptcy Court for the District of Delaware has approved an investment transaction pursuant to which GLP's assets will be transferred to a company controlled by ICO. According to GLP, ICO's interests as the proposed new owner of the Globalstar system cannot be taken into account in this proceeding until the applications for the assignment of the Globalstar assets have been approved by the Commission.

3. We find that the public interest does not weigh in favor of a grant here. Rather, we find that extending the comment deadline would contravene the Commission's express intention to proceed expeditiously in this rulemaking proceeding. First, we do not agree that a Commission decision regarding whether to revise the Big LEO band plan must necessarily be affected by the amount of second generation spectrum available to GLP in the 2 GHz MSS band. We expect any decision the Commission may make regarding whether to revise the Big LEO band plan will be made based on the operations and use of systems in the Big LEO band. We do not believe that resolution of 2 GHz MSS licensing matters will have any bearing on whether or how the Commission may decide to alter the Big LEO band plan. In any event, it is not necessary for the Commission to reach a decision on GLP's appeal for parties to provide comments in this proceeding concerning how favorable or unfavorable Commission action with respect to GLP's appeal might affect GLP's spectrum needs in the Big LEO band.

4. Second, we do not agree that a Commission decision regarding the proposed ICO/GLP transaction is necessary for parties to comment meaningfully in this proceeding. Whether or not the Commission ultimately approves the transaction has no bearing on current operations, use, or capacity of the Globalstar Big LEO MSS system. Moreover, nothing prohibits ICO, as proposed new owners of the Globalstar Big LEO MSS system, from filing comments in this proceeding. We are not convinced that ICO requires resolution of its pending transfer and assignment applications to understand its interests and comment meaningfully in this proceeding.

5. Nevertheless, because of the operation of § 1.46 of the Commissions rules, which automatically extends the time for filing comments until two business days after the Commission denies a timely-filed motion for extension of time, we adjusted the comment date to July 11, 2003. Also, to provide parties a full two weeks to respond to comments filed in this proceeding, we adjusted the reply comment date to July 25, 2003.

6. Accordingly, pursuant to § 1.46 of the Commission's rules, 47 CFR 1.46, the new comment due date was July 11, 2003 and the new reply comment due date was July 25, 2003. Instructions for filing pleadings in this proceeding are set forth in the NPRM, available on the Commission's Web site at *http://www.fcc.gov.* All comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 Twelfth Street SW., Washington, DC 20554.

Federal Communications Commission.

James Ball,

Chief, Policy Division, International Bureau.

[FR Doc. 03–20787 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–2571, MB Docket No. 03–182, RM–10757]

Radio Broadcasting Services; Cambria, California

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Daniel R. Feely proposing the allotment of Channel 287A at Cambria, California, as the community's third local aural transmission service. Channel 287A can be allotted to Cambria at city reference coordinates. The reference coordinates for Channel 287A at Cambria, California are 35–33–14 NL and 121–05–15 WL.

DATES: Comments must be filed on or before September 22, 2003, and reply comments on or before October 7, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Daniel R. Feely, 682 Palisade Street, Pasadena, California 91103.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–182, adopted July 30, 2003, and released August 1, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 287A at Cambria.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–20945 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1507

[Docket No. TSA–2003–15900]

RIN 1652–AA28

Privacy Act of 1974: Implementation of Exemption

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: TSA proposes to exempt several systems of records from one or more provisions of the Privacy Act. Public comment is invited.

DATES: Submit comments by September 17, 2003.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number TSA–2003–15900 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that TSA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet at *http://dms.dot.gov*. Please be aware that anyone is able to search the electronic form of all comments received into any of these 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*. You may also review the public docket containing comments in person at the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

FOR FURTHER INFORMATION CONTACT: Conrad Huygen, Privacy Act Officer, TSA Office of Information Management Programs, TSA Headquarters, West Tower, 4th Floor (412S), 601 S. 12th Street, Arlington, VA 22202–4220; telephone (571) 227–1954; facsimile (571) 227–2912.

SUPPLEMENTARY INFORMATION:

Comments Invited

TSA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. *See* **ADDRESSES** above for information on how to submit comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with TSA personnel concerning this rulemaking. The docket is available for public inspection before and after the comment closing date.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this rulemaking in light of the comments we receive.

If you want TSA to acknowledge receipt of your comments on this rulemaking, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*);

(2) Accessing the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html;* or

(3) Visiting the TSA's Law and Policy web page at *http://www.tsa.dot.gov/public/index.jsp*.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Background

Prior to March 1, 2003, TSA was an operating administration within the Department of Transportation (DOT). While part of DOT, TSA established several Privacy Act systems of records. Under DOT practice, DOT identified those TSA systems of records that are exempt from one or more provisions of the Privacy Act (pursuant to 5 U.S.C. 552a(j) or (k) both) in a system notice published in the **Federal Register** and in an appendix to DOT's Privacy Act regulations (49 CFR part 10, Appendix). On December 24, 2002, DOT published a proposed rule exempting three TSA systems of records from several provisions of the Privacy Act. *See* 67 FR 78403, Dec. 24, 2002.

As of March 1, 2003, TSA transferred to the Department of Homeland Security (DHS) and is now republishing the exemptions proposed on December 24, 2002, for its three systems of records now designated as DHS/TSA 001, 002, and 004. TSA also is proposing to exempt DHS/TSA 001 from an additional provision of the Privacy Act. In addition, TSA proposes to exempt five new systems of records from one or more provisions of the Privacy Act.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that TSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no current or new information collection requirements associated with this proposed rule.

Analysis of Regulatory Impacts

This proposal is not a ''significant regulatory action'' within the meaning of Executive Order 12886. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this proposal would not have a significant economic impact on a substantial number of small entities, because the reporting requirements themselves are not changed and because it applies only to information on individuals.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty, imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in aggregate, $100 million or more in any one year the UMRA analysis is required. This proposal would not impose Federal mandates on any State, local, or tribal government or the private sector.

Executive Order 13132, Federalism

TSA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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, and therefore would not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this document has been assessed in accordance with the Energy Policy and Conservation Act

(EPCA) Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR part 1507

Privacy.

The Proposed Amendment

In consideration of the foregoing, the Transportation Security Administration proposes to amend Chapter XII of Title 49, Code of Federal Regulations, as follows:

1. Add a part 1507 to read as follows:

PART 1507 PRIVACY ACT—EXEMPTIONS

Sec.
1507.1 Scope.
1507.3 Exemptions.

Authority: 49 U.S.C. 114(l)(1), 40113, 5 U.S.C. 552a(k)(1)–(k)(2).

§ 1507.1 Scope.

This part implements provisions of the Privacy Act of 1974 that permit TSA to exempt any system of records within the agency from certain requirements of the Act. The procedures governing access to, and correction of, records in a TSA system of records are set forth in 6 CFR part 5, subpart B.

§ 1507.3 Exemptions.

The following TSA systems of records are exempt from certain provisions of the Privacy Act of 1974 pursuant to 5 U.S.C. 552a(j), (k), or both as set forth below. During the course of normal agency functions, exempt materials from one system of records may become part of one or more other systems of records. To the extent that any portion of a system of records becomes part of another Privacy Act system of records, TSA hereby claims the same exemptions as were claimed in the original primary system of which they are a part and claims any additional exemptions in accordance with this rule.

(a) *Transportation Security Enforcement Record System (DHS/TSA 001).* The Transportation Security Enforcement Record System (TSERS) (DHS/TSA 001) enables TSA to maintain a system of records related to the screening of passengers and property and they may be used to identify, review, analyze, investigate, and prosecute violations or potential violations of transportation security laws. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 001 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of the Transportation Security Administration as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to transportation security law enforcement efforts and efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension, which undermines the entire system.

(2) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of the Transportation Security Administration as well as the recipient agency. Access to the records would permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. The information contained in the system may also include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose security-sensitive information that could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of transportation security laws, the accuracy of information obtained or introduced, occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of transportation security laws, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(b) *Transportation Workers Employment Investigations System (DHS/TSA 002).* The Transportation Workers Employment Investigations System (TWEI) (DHS/TSA 002) enables TSA to facilitate the performance of employment. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 002 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records) because access to the records contained in this system could reveal investigative techniques and procedures in the transportation workers employment investigation process, as well as the nature and scope of the employment investigation, the disclosure of which could enable individuals to circumvent agency regulations or statutes and obtain access to sensitive information and restricted areas in the transportation industry. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to the security of transportation.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because third agency records obtained or made available to TSA during the course of an employment investigation may occasionally contain information that is not strictly relevant or necessary to a specific employment investigation. In the interests of administering an effective and comprehensive transportation worker employment investigation program, it is appropriate and necessary for the Transportation Security Administration to retain all

such information that may aid in that process.

(4) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(c) *Personnel Background Investigation File System (DHS/TSA 004).* DHS/TSA 004 enables TSA to maintain investigative and background material used to make suitability and eligibility determinations regarding current and former TSA employees, applicants for TSA employment, and TSA contract employees. Pursuant to exemption (k)(5) of the Privacy Act, the Personnel Background Investigation File System is exempt from 5 U.S.C. 552a(c)(3) (Accounting for Disclosures) and (d) (Access to Records). Exemptions from the particular subsections are justified because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the applicability of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to or amendment of the record, or access to the accounting of disclosures of the record.

(d) *Internal Investigation Record System (DOT/TSA 005).* The Internal Investigation Record System (IIRS) (DOT/TSA 005) contains records of internal investigations for all modes of transportation for which TSA has security-related duties. This system covers information regarding investigations of allegations or appearances of misconduct of current or former TSA employees or contractors and provides support for any adverse action that may occur as a result of the findings of the investigation. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DOT/TSA 005 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records) because access to the records contained in this system could reveal investigative techniques and procedures of the Office of Internal Affairs and Program Review, as well as the nature and scope of the investigation, the disclosure of which could enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to the security of transportation.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because third agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for the Transportation Security Administration to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(e) *Correspondence and Matters Tracking Records (DOT/TSA 006).* The Correspondence and Matters Tracking Records (CMTR) (DOT/TSA 006) system allows TSA to manage, track, retrieve, and respond to incoming correspondence, inquiries, claims and other matters presented to TSA for disposition, and to monitor the assignment, disposition and status of such matters. This system covers information coming into TSA from individuals as well as information recorded by TSA employees in the performance of their duties. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DOT/TSA 006 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records) because access to the records contained in this system could reveal investigative interest on the part of TSA or other agency and the nature of that interest, the disclosure of which could enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to the security of transportation.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because third agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for the Transportation Security Administration to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(f) *Freedom of Information and Privacy Act Records (DHS/TSA 007).* The Freedom of Information (FOIA) and Privacy Act (PA) Record System (DHS/TSA 007) system enables TSA to maintain records that will assist in processing access requests and administrative appeals under the FOIA and access and amendment requests and appeals under the PA; participate in associated litigation; and assist TSA in carrying out any other responsibilities under the FOIA and PA. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, Freedom of Information and Privacy Act Records are exempt

from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records) because access to the records contained in this system could reveal investigative interest on the part of TSA or other agency and the nature of that interest, the disclosure of which could enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to the security of transportation.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because third agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for the Transportation Security Administration to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(g) *General Legal Records System (DHS/TSA 009).* The General Legal Records (GLR) System (DHS/TSA 009) enables TSA to maintain records that will assist attorneys to perform their functions within the office of Chief Counsel, to include providing legal advice, responding to claims filed by employees and others, and assisting in litigation and in the settlement of claims. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 009 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency, as the individual who is the subject of a record would learn of third-agency investigative interests and thereby avoid detection or apprehension.

(2) From subsection (d) (Access to Records) because access to the records contained in this system could reveal investigative interest on the part of TSA or other agency and the nature of that interest, the disclosure of which could enable individuals to circumvent agency regulations or statutes. The information contained in the system might include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information could reveal sensitive security information protected pursuant to 49 U.S.C. 114(s), the disclosure of which could be detrimental to the security of transportation.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because third agency records obtained or made available to TSA during the course of an investigation may occasionally contain information that is not strictly relevant or necessary to a specific investigation. In the interests of administering an effective and comprehensive investigation program, it is appropriate and necessary for the Transportation Security Administration to retain all such information that may aid in that process.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

(h) *Federal Flight Deck Officer Records System (DHS/TSA 013).* The Federal Flight Deck Officer Record System (FFDORS) enables TSA to maintain a system of records documenting the application, selection, training, and requalification of pilots deputized by TSA to perform the duties of a Federal Flight Deck Officer (FFDO). Pursuant to exemptions (k)(1), (k)(2), and (k)(6) of the Privacy Act, DHS/TSA 013 is exempt from 5 U.S.C. 552a(c)(3), (d), and (e)(1). Exemptions from the particular subsections are justified for the following reasons:

(1) From (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records), because access to the accounting of disclosures in this system could reveal the identity of a confidential source that provided information during the background check process. Without the ability to protect the identity of a confidential source, the agency's ability to gather pertinent information about candidates for the program may be limited. In addition, the system might contain information that is properly classified, the release of which would pose a threat to national security and/or foreign policy, or information the disclosure of which could be detrimental to the security of transportation pursuant to 49 U.S.C. 114(s). Finally, the agency must be able to protect against access to testing or examination material as release of this material could compromise the effectiveness of the testing and examination procedure itself. The examination material contained in this system is so similar in form and content to the examination material used to determine individual qualifications for the appointment or promotion of TSA law enforcement officers, that release of the material would compromise the objectivity or fairness of the testing or examination process of those TSA employees.

(2) From (e)(1) (Relevancy and Necessity of Information), because information obtained or made available to TSA from other agencies and other sources during the evaluation of an individual's suitability for an FFDO position may occasionally include information that is not strictly relevant or necessary to the specific determination regarding that individual. In the interests of effective program administration, it is appropriate and necessary for TSA to collect all such information that may aid in the FFDO selection process.

Issued in Arlington, Virginia, on August 8, 2003.

Susan T. Tracey,

Deputy Chief Administrative Officer.

[FR Doc. 03–20926 Filed 8–15–03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 081103A]

RIN 0648–AR36

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16–1

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 16–1 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for Secretarial review. Amendment 16–1 would set a process and standards by which the Council will specify rebuilding plans for groundfish stocks declared overfished by the Secretary of Commerce. Amendment 16–1 is intended to ensure that Pacific coast groundfish overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in particular National Standard 1 on overfishing and § 304(e), which addresses rebuilding overfished fisheries. Amendment 16–1 is also intended to partially respond to a Court order in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act.

DATES: Comments on Amendment 16–1 must be received on or before October 17, 2003.

ADDRESSES: Comments on Amendment 16–1 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region, National Marine Fisheries Service, Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or to Rodney McInnis, Acting Administrator, Southwest Region, National Marine Fisheries Service, 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

Copies of Amendment 16–1 and the Environmental Assessment/ Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (Northwest Region, NMFS), phone: 206–526–6150; fax: 206–526–6736 and; e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the **Federal Register**'s website at: *http://www/access/gpo.gov/su__docs/aces140.html*.

The Magnuson-Stevens Act requires each regional fishery management council to submit fishery management plans or plan amendments to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires NMFS, immediately upon receiving a fishery management plan or plan amendment, to publish notification in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. At the end of the comment period, NMFS considers the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove the fishery management plan or plan amendment.

Amendment 16–1 would set a process and standards by which the Council will specify rebuilding plans for groundfish stocks declared overfished by the Secretary of Commerce. Amendment 16–1 is intended to ensure that Pacific Coast groundfish overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Act in particular National Standard 1 on overfishing and § 304(e), which addresses rebuilding overfished fisheries. Amendment 16–1 is also intended to partially respond to a Court order in *Natural Resources Defense Council, Inc.* v. *Evans*, 168 F. Supp. 2d 1149 (N.D. Cal 2001,) in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act. Amendment 16–1 will be followed by Amendment 16–2, which was adopted by the Council at its June 2003 meeting. If approved, Amendment 16–2 would implement rebuilding plans for canary rockfish, darkblotched rockfish, lingcod, and Pacific ocean perch.

Under Amendment 16–1, initial rebuilding plans for overfished species would be incorporated into the FMP via FMP amendments and implemented through Federal regulations. The two rebuilding parameters that control the establishment of the annual or biennial optimum yield of each overfished species would be codified in the Code of Federal Regulations. If, after a new stock assessment, the Council and NMFS conclude that these should be revised, the revision will be done through a notice and comment rulemaking, and the updated values codified in the Code of Federal Regulations. Amendment 16–1 would also set standards for the frequency of Council review of rebuilding plans such that whenever the species in question has a new stock assessment, the plan will be reviewed for whether it is expected to achieve the population size and structure to support maximum sustainable yield within the plan's rebuilding period. Rebuilding plans would be reviewed at least every 2 years for their effects on fishing communities, for their distribution of conservation burdens, for the need to protect habitat, and for public awareness of rebuilding programs. Individual species rebuilding plans would also identify plan-specific standards for determining whether and when the progress of rebuilding for that particular species has been adequate. Finally, Amendment 16–1 requires that, if a species managed under a rebuilding plan is listed under the Endangered Species Act (ESA), jeopardy standards or a recovery plan under the ESA would take precedence over the rebuilding plan if they were to establish higher rebuilding and/or recovery standards than those in the rebuilding plans. Beyond these substantive revisions to the FMP, Amendment 16–1 also includes a series of lesser, primarily editorial, changes to the FMP. These minor technical additions, corrections, and changes update FMP definitions, update references to management parameters, re-arrange portions of different FMP chapters so that they read more logically, and update different sections of the FMP to require in the FMP, rather than just in Federal regulations, the existing federal observer program for groundfish fisheries.

Public comments on Amendment 16–1 must be received by October 17, 2003, to be considered by NMFS in the decision whether to approve, disapprove, or partially approve Amendment 16–1. A proposed rule to implement Amendment 16–1 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comments on proposed regulations to implement Amendment 16–1 in the near future.

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: August 13, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–21069 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030804191–3191–01; I.D. 071603A]

RIN 0648–AR31

Fisheries of the Exclusive Economic Zone Off Alaska; Allocation of Pacific Cod Among Fixed Gear Sectors

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 77 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). If approved, Amendment 77 would continue to apportion the Bering Sea and Aleutian Islands Management Area (BSAI) Pacific cod total allowable catch (TAC) among the fixed gear sectors. In addition, this action would split the pot sector share of the TAC between pot catcher/processors and pot catcher vessels, change the way the 2–percent annual BSAI Pacific cod allocation to jig gear is seasonally apportioned, and change the way unused portions are reallocated to other gear types. Amendment 77 is intended to maintain the stability of the fixed gear Pacific cod fishery. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Comments must be received by October 2, 2003.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Durall, or delivered to room 420 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments may also be sent via facsimile (fax) to 907–586–7557. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for the proposed rule may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Nina Mollett, 907–586–7462 or Nina.Mollett@noaa.gov.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone (EEZ) of the BSAI are managed under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq*. Regulations implementing the FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The Council submitted Amendment 77 for Secretary of Commerce review, and it published a Notice of Availability of the FMP amendment in the **Federal Register** on July 22, 2003 (68 FR 43342), with comments on the FMP amendment invited through September 22, 2003.

Comments may address the FMP amendment, the proposed rule, or both, but must be received by September 22, 2003 to be considered in the approval/disapproval decision on the FMP amendment. All comments received by that time, whether specifically directed to the FMP amendment or to the proposed rule, will be considered in the approval/disapproval decision on the FMP amendment.

Background

Amendment 77 is intended to respond to concerns that the stability of the fully utilized Pacific cod fishery is threatened by increased competition. This competition has been fueled in part by recent increases in the market value of Pacific cod products and in part by decreases in opilio crab guideline harvest level (GHL). Participants in the BSAI fixed gear Pacific cod fishery include hook-and-line and pot gear fishermen with extensive catch histories. Absent the current gear allocations under Amendment 64, which are set to sunset on December 31, 2003, no regulatory mechanism is in place that would prevent one sector from increasing its effort in the fishery and from eroding another sector's relative historical share. The proposed split between the two sectors of the Pacific cod pot gear fishery is similarly intended to prevent one sector from eroding the other's market share.

Formal allocation of the BSAI Pacific cod TAC among gear types began in 1994 with the passage of Amendment 24 to the FMP. Amendment 24 and subsequently Amendment 46 allocated the Pacific cod TAC among vessels using jig gear, trawl gear, and fixed gear (hook-and-line and pot). Under Amendment 46, which was implemented in 1997, 2 percent of the TAC was reserved for jig gear, 51 percent for fixed gear, and 47 percent for trawl gear. The amendment further split the trawl apportionment equally between catcher vessels and catcher/processors, but did not split the fixed gear allocation between hook-and-line and pot gear vessels.

At its April 1999 meeting, the Council initiated an analysis to examine the probable effects of further splitting the fixed gear allocation of Pacific cod. In October of that year, the Council approved Amendment 64, which allocated the fixed gear portion of the BSAI TAC among its four sectors as follows:

•80 percent - hook-and-line catcher/processors;

•0.3 percent - hook-and-line catcher vessels;

•18.3 percent - pot vessels;

•1.4 percent - catcher vessels less than 60 ft (18.3 m) length overall (LOA), using pot or hook-and-line gear.

The percentages were roughly based on the historical harvest shares of each gear sector from 1995 through 1998, with the exception of the allocation to catcher vessels less than 60 ft (18.3 m) LOA, which received more than their actual historical share.

Amendment 64 was approved by the U.S. Secretary of Commerce in July 2000 and became effective on September 1, 2000 (65 FR 51553, August 24, 2000). Amendment 64 and its implementing rule include a sunset date of December 31, 2003; the allocations established for the fixed gear sectors will expire at that time.

Amendment 77 and its implementing rule would supersede Amendment 64. It would remove the sunset provision for the fixed gear sector allocations established by Amendment 64. It would further allocate the pot sector's share between pot catcher vessels and pot catcher/processors. It would also change the rollover provisions for unused quota from the jig gear sector, in effect reallocating some quota that is typically allocated to the catcher/processor sector to the less than 60 ft (18.3 m) LOA catcher vessel sector. Each of these provisions is discussed below.

Preserving Allocation Among Fixed Gear Sectors

Hook-and-line and pot gear fishermen have expressed concern with the

pending expiration of the fixed gear allocations for BSAI Pacific cod under Amendment 64, and the potential for serious disruption to the fishery if no gear allocations are in place for the 2004 fishing year. Increased prices for Pacific cod, reduced crab GHLs, and shortened or canceled crab seasons due to low resource abundance have resulted in increased harvests of Pacific cod by vessels using pot gear. Fishermen that are displaced from the crab fisheries have expressed interest in fishing for Pacific cod, spurring concerns by long-term Pacific cod fishermen about erosion of their gear harvest shares in the fishery in favor of vessels using pot gear with limited historical participation in the fishery. Approval of Amendment 77 would maintain the status quo allocations of Pacific cod for the fixed gear sector with some modifications, including a change in the rollover provisions for jig gear and a split in the allocation between the two sectors of the Pacific cod pot gear fishery.

Further Split of Pot Sector Share

Amendment 77 would split the pot gear sector share of the TAC between pot catcher/processors and pot catcher vessels. In October 1999, when the Council approved Amendment 64, the pot catcher/processor sector requested a direct gear allocation, similar to the separate allocations the hook-and-line sectors received under Amendment 64. The Council acknowledged that a similar split between catcher/processors and catcher vessels using pot gear might be desirable. However, because the public had not been given an opportunity to comment on the idea, the Council, delaying the action, decided to include the proposal in a follow-up amendment (proposed BSAI Amendment 68 to the FMP).

In June 2000, the Council considered Amendment 68 to create separate allocations for the pot catcher/processor and pot catcher vessel sectors, but decided to again delay action until the allocation to pot gear sectors could be included in one FMP amendment that would also address the issues associated with the expiration of Amendment 64.

Under Amendment 77 as adopted by the Council, the pot share of the BSAI Pacific cod fixed gear TAC would be allocated between pot catcher/processors and pot catcher vessels based on catch histories by the two sectors from 1998 through 2001. In effect, this action would split the pot gear vessel quota, providing 82 percent to catcher vessels and 18 percent to catcher/processors. Catcher vessels, which have been catching an increasing proportion of the harvest over recent years, would receive about 6 percent more than they would if the split were based on 1995–1999 catch histories, the earliest option analyzed in the EA/RIR/IRFA.

With the pot catcher vessel and pot catcher/processor split taken into account, the fixed gear sectors under Amendment 77 would receive the following shares of the BSAI Pacific cod fixed gear TAC:

- 80.0 percent to hook-and-line catcher/processors;
- 0.3 percent to hook-and-line catcher vessels;
- 3.3 percent to pot catcher/processors;
- 15.0 percent to pot catcher vessels; and
- 1.4 percent to catcher vessels less than 60 ft (18.3 m) LOA, using pot or hook-and-line gear.

Proposed Rollover Requirements

The proposed rule implementing Amendment 77 would also include new rollover requirements for unharvested portions of the jig sector allocation. Currently, regulatory provisions authorized under Amendment 64 require that unused portions of the overall BSAI Pacific cod allocations to trawl and jig gear be reallocated 95 percent to the hook-and-line catcher/processor sector and 5–percent to vessels using pot gear. Furthermore, reallocation of the unused portion of the jig gear TAC is not authorized until September 15 of each fishing year.

Under Amendment 77, unused trawl quota would be reallocated in nearly the same manner, except that the 5 percent pot gear reallocation would be split further between the two sectors of the pot vessel fleet, using the same percentages as would apply to the overall pot vessel quota, as explained above. The reallocated trawl gear would, therefore, amount to 95 percent to the hook-and-line catcher/processor sector, 0.9 percent to pot catcher/processors, and 4.1 percent to pot catcher vessels.

Unused jig gear quota, however, would be handled differently than under current regulations. The quota would be apportioned to the jig gear sector through the annual harvest specification process on a trimester basis. The three seasonal apportionments for the jig gear allocation would be 40 percent, 20 percent, and 40 percent respectively for January April, May August, and September December. Projected amounts of unharvested jig gear seasonal apportionments would be initially reallocated each jig season to catcher vessels less than 60 ft (18.3 m) using hook-and-line or pot gear. Only if the Regional Administrator determines that the small vessel fleet would not be able to harvest the additional amounts of Pacific cod would these jig gear rollover amounts be made available to the hook-and-line catcher/processor sector.

In effect, the new rollover provisions in Amendment 77 would primarily represent a reallocation from the hook-and-line catcher/processor fleet to smaller vessels. The jig sector harvested an average of 6 percent of its BSAI Pacific cod allocation from 1995 to 2001. Since the implementation of Amendment 64 in 2000, quota reallocated from the jig sector has accounted for about 3.3 percent of the hook-and-line catcher/processor sector's total catch and 0.5 percent of the pot sector's total catch. Under the proposed action, 40 percent of the jig quota, less whatever catch the jig gear sector is projected to take, could be potentially reallocated to the less than 60 ft (18.3 m) LOA catcher fleet by April, more than doubling the total Pacific cod quota available to that fleet (based on the 2003 TAC). This seasonal front-loading would benefit the small vessel fleet not only by increasing its quota at a time when the fleet has just started fishing for Pacific cod, but also by reducing the risk of having to close the less than 60 ft (18.3 m) LOA fishery intermittently while the fleet waits for quota reallocated from the jig sector.

Members of the public testifying in favor of retaining the status quo for jig gear rollovers argued that such a reallocation should be considered only as part of an overall gear allocation discussion of all allocations affecting all sectors. Speakers stressed that when the Council approved Amendment 64 in 1999, giving the jig gear sector a two percent allocation, the parties involved understood that most of the jig gear sector's unused quota would continue to be reallocated to the catcher/processor fleet. Apportioning some of the unharvested jig allocation instead to the under 60 ft (18.3 m) LOA vessels was portrayed as reneging on a bargain, and speakers stressed that the amount of catch under discussion is not trivial.

Speakers who favored changing the way jig rollovers would be apportioned expressed their belief that the original intent of the two percent jig allocation was to develop the small boat fleet in support of coastal communities, that pot and hook-and-line vessels less than 60 ft (18.3 m) LOA play a similar role to jig vessels in community development, emphasized the extremely low bycatch rate of the small pot vessels, and said that the proportion of TAC affected was relatively minor.

In effect, the option the Council adopted was a compromise, because the third trimester's allocation of unused jig quota probably could not be completely harvested by the catcher vessels less than 60 ft (18.3) LOA and would be reallocated to hook-and-line catcher/processors during the last trimester. Depending on when fishery managers are able to project catch for the second trimester, some or all of the reallocated jig catch from the second trimester might also be reallocated to the hook-and-line catcher/processor fleet.

The small boat fleet is most capable of fishing in the spring and summer, partly due to weather considerations later in the year. Other constraints exist as well. Hook-and-line vessels cannot fish for Pacific cod between noon on June 10 and noon on August 15 because they typically receive little or no halibut bycatch as part of the rulemaking implementing the annual harvest specifications; and pot vessels are constrained by the A and B seasons established under Steller sea lion protection measures. Under these measures, pot vessels greater than or equal to 60 ft (18.3 m) LOA may not harvest BSAI Pacific cod in a directed fishery between June 10, when the A season ends and September 1, when the B season begins. The A season share is 60 percent and the B season share is 40 percent of the pot quota. Whenever the general pot gear fisheries are closed, catcher vessels less than 60 ft (18.3 m) LOA using pot gear are allowed to harvest the 1.4 percent of the BSAI Pacific cod TAC set aside for catcher vessels less than 60' LOA. As of September 1, however, all pot catcher boats, including those under 60 ft (18.3 m) LOA, would fish for the B season portion of the proposed 15 percent allocation to pot catcher vessels. In other words, small vessels fishing with pot gear are unlikely to need extra quota over the fall months, when they are much less likely to want to fish due to poor weather conditions in the Bering Sea, and when their harvests are deducted from the general pot catcher vessel quota. The jig gear reallocation in the proposed rule would, however, allow them to avoid the constraint of the 1.4 percent quota which limits them during the summer months.

Classification

At this time, NMFS has not determined whether the amendment that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The Council prepared an Initial Regulatory Flexibility Analysis (IRFA), which describes any adverse impacts this proposed rule, if adopted, would have on directly regulated small entities. A summary of the IRFA follows:

The directly regulated entities for Amendment 77 would be those vessels participating in the Pacific cod fixed gear fishery in the BSAI. The Small Business Administration has established size criteria for defining a small entity in the fish harvesting business; it must be independently owned and operated, not dominant in its field of operation (including its affiliates), and with combined annual receipts not in excess of $3.5 million for all its affiliated operations worldwide. Some vessels that participate in the Pacific cod fixed gear fishery might be considered large entities under the SBA definition because they are either affiliated under owners of multiple vessels or are catcher/processors. However, little is known about the ownership structure of the vessels in the fleet, and for purposes of the IRFA, all Pacific cod hook-and-line and pot catcher vessels were considered small businesses.

The smallest entities in the catcher vessel fleets, vessels less than 60 ft (18.3 m) LOA, do not need a Pacific cod endorsement to continue prosecuting the BSAI Pacific cod fishery, but they must meet the requirements of the License Limitation Program (LLP). Thirty-two unique pot catcher vessels and 96 hook-and-line catcher vessels in this size category are documented to have made at least one landing in the directed BSAI Pacific cod fishery during 1995–2001 and appear to be qualified under the LLP to use non-trawl gear in the BSAI groundfish fisheries. On average since 1995, however, only 18 hook-and-line and 5 pot catcher vessels have participated in any one year.

Amendment 67 to the BSAI Groundfish FMP, which became effective January 1, 2003, adds a Pacific cod endorsement to Federal licenses held by fixed gear vessels that qualify for a BSAI area endorsement under the current LLP and also meet specified qualification criteria in terms of catch history for their gear type. Under Amendment 67, a total of about 57 catcher vessels greater than or equal to 60 ft (18.3 m) LOA (3 longline and 54 pot vessels) likely will receive catcher vessel (CV) endorsements on their licenses to participate in the Bering Sea Pacific cod fixed gear fishery. This is a substantial reduction in the fleet 129 unique longline and 226 unique pot catcher vessels of any length participated at any time from 1995 to 2001. An estimated forty-six vessels greater than or equal to 60 ft (18.3 m LOA (40 longline and 6 pot vessels) likely will receive catcher/processor (CP) endorsements on their licenses to participate in the Bering Sea Pacific cod fixed gear fishery. In addition, an estimated six longline catcher/processors and three pot catcher processors will qualify for a CV endorsement for their respective gear types.

Although the appeals processes associated with interim licenses are not complete, all 54 of the pot catcher vessels, and one of the pot catcher/processors, that potentially qualify for a Pacific cod endorsement appear to have earned gross revenues of less than $3.5 million and thus are considered small businesses.

Due to the small number of participants, data regarding the three hook-and-line catcher vessels are confidential, but they all appear to have earned revenues of less than $3.5 million and thus are considered small businesses. Of the six longline catcher/processors that meet only the CV qualifications for endorsements, which is based on landings over the years 1995 1999, all six appear to meet the SBA definition of small businesses. Several others among the 40 catcher/processor vessels are estimated to receive a hook-and-line CP endorsement also reported annual receipts of less than $3.5 million; however, little is known about the ownership of this fleet, so developing a meaningful estimate of how many are small entities is not possible.

Adding these numbers gives a total estimate of about 87 vessels that would be directly regulated by this action: 55 pot vessels greater than or equal to 60 ft (18.3 m) LOA; 5 pot vessels less than 60 ft LOA; 9 hook-and-line vessels greater than or equal to 60 ft (18.3 m) LOA; and 18 hook-and-line catcher vessels less than 60 ft (18.3 m) LOA.

The IRFA analysis of expected impacts on small entities under the alternatives noted that, because the proposed action would maintain a percentage distribution among gear sectors very close to the average harvest level since 1995, net effects would be expected to be minimal relative to the status quo alternative and possibly in relation to the no action alternative as well, The IRFA assumes that the distribution of harvest would not change significantly under the no action

alternative because estimates of changes that might occur in the absence of fixed gear allocations cannot be made. However, some changes may occur; indications are that each sector might want to increase its relative share of the Pacific cod TAC, especially given the current, relatively low opilio crab GHL, and the limited opportunity in alternative fisheries. How the competition would play out is not easy to predict; although it is likely there would be more fishing pressure in the A season, and unlikely that smaller boats would increase their share.

The fixed gear allocations under Amendment 64 have been in place since mid 2000, so each sector has been constrained by those allocations. However, the pot gear share of the fixed gear Pacific cod TAC has not been further apportioned between pot catcher/processors and pot catcher vessels. The pot catcher vessel sector increased its relative share of the pot gear quota in 2000, 2001, and 2002, and the number of pot vessels less than 60 ft (18.3 m) LOA is not constrained by the Pacific cod endorsement requirement under Amendment 67. The action as approved by the Council, which would split the pot sector allocation based on catch histories from 1998–2001, would allow the pot catcher vessels to maintain the higher percentage of pot sector quota TAC that they have achieved in the past few years relative to the pot catcher/processors.

As with many allocation-based management measures, the alternatives propose a percentage allocation of the TAC among competing groups of vessels. In this case, vessels in each group are primarily small entities representing a tradeoff in terms of impacts; some small entities could be negatively affected, and others positively affected. Under Amendment 64, and again proposed under this amendment, a separate allocation of 1.4 percent was made to hook-and-line and pot catcher vessels less than 60 ft (18.3 m) LOA, the effect of which was to allocate more Pacific cod to catcher vessels delivering to shorebased processors than they had historically harvested. That type of allocation tends to disproportionately benefit the smallest entities among these fishery sectors. The proposed seasonal reallocation of unused Pacific cod jig gear quota from hook-and-line catcher/processors to the less than 60 ft (18.3 m) LOA pot and hook-and-line vessels similarly is a tradeoff that benefits the smaller entities.

Nothing in the proposed amendment would cause any obvious disproportionate regulatory impacts to small entities, relative to large ones. From one perspective, setting a percentage allocation will keep one sector from increasing its share relative to what it could do under the no action alternative. Based on the information developed for the RIR and from public testimony, it appears that the pot sector is more likely to increase its relative share in the absence of a quota split. Another way to look at this, is that continuing separate BSAI Pacific cod allocations for the fixed gear sectors would serve to maintain the current share taken by the smallest entities.

Another mitigating effect should occur from implementation of Amendment 67. One of the points raised in opposition to the split when it was considered in 1999 under Amendment 64 is that many pot vessels are qualified under the LLP but have not participated in the Pacific cod fishery, and if the pot sector's share of the quota were fixed at a specific level, and some of these vessels began to participate, pot vessels already participating in and dependent on the fishery would be at a disadvantage. The intent of Amendment 67, which went into effect on January 1, 2003, is to eliminate the latent capacity in both the pot and longline fleets by adopting species and gear endorsements based on a set of minimum level of landings and years of participation.

Nothing in the proposed action would result in any changes in reporting or recordkeeping requirements, and NMFS has not identified any relevant Federal rules that may duplicate, overlap, or conflict with the preferred alternative.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 12, 2003.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub L. 106–31, 113 Stat. 57; 16 U.S.C. 1540(f).

2. In § 679.20, paragraphs (a)(7)(i)(C), (a)(7)(ii)(C), and (a)(7)(iii)(A) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(7) ***

(i) ***

(C) *Allocations among vessels using hook-and-line or pot gear.* (*1*) The Regional Administrator annually will estimate the amount of Pacific cod taken as incidental catch in directed fisheries for groundfish other than Pacific cod by vessels using hook-and-line or pot gear and deduct that amount from the portion of Pacific cod TAC annually allocated to hook-and-line or pot gear under paragraph (a)(7)(i)(A) of this section. The remainder will be further allocated as directed fishing allowances as follows:

(*i*) 80.0 percent to catcher/processor vessels using hook-and-line gear;

(*ii*) 0.3 percent to catcher vessels using hook-and-line gear;

(*iii*) 3.3 percent to catcher/processor vessels using pot gear;

(*iv*) 15.0 percent to catcher vessels using pot gear; and

(*v*) 1.4 percent to catcher vessels less than 60 ft (18.3 m) LOA that use either hook-and-line or pot gear.

(*2*) Harvest of Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using pot gear:

(*i*) Will accrue against the 15 percent specified in paragraph (a)(7)(i)(C)(*1*)(*iv*) of this section when the directed fishery for Pacific cod by catcher vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is open.

(*ii*) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(*1*)(*v*) of this section when the directed fishery for Pacific cod by catcher vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is closed.

* * * * *

(ii) * * *

(C) *Reallocation among vessels using trawl or non-trawl gear.* If, during a fishing year, the Regional Administrator determines that vessels using trawl gear, hook-and-line gear, pot gear or jig gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraphs (a)(7)(i)(A), (a)(7)(i)(B) or (a)(7)(i)(C) of this section, NMFS will reallocate the projected unused amount of Pacific cod to vessels harvesting Pacific cod using the other gear type(s) through notification in the **Federal Register**, subject to the provisions below:

(*1*) *Reallocation of TAC specified for jig gear.* The Regional Administrator will reallocate any projected unused portion of a seasonal allowance of Pacific cod for vessels using jig gear under paragraphs (a)(7)(i)(A) and (a)(7)(iii)(A) of this section to catcher

vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear.

(*2*) *Reallocation of TAC specified for trawl gear.* The Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC allocated to trawl gear under paragraph (a)(7)(i) of this section: 95 percent to catcher/processor vessels using hook-and-line gear, 0.9 percent to catcher/processor vessels using pot gear, and 4.1 percent to catcher vessels using pot gear.

* * * * *

(iii) * * *

(A) *Seasonal apportionment and gear allocations.* The BSAI Pacific cod gear allocations and apportionments by seasons, as specified in § 679.23 (e)(5), are as follows:

Gear Type	A season	B season	C season
(*1*) trawl	60 percent	20 percent	20 percent
(*i*) trawl CV	70 percent	10 percent	20 percent
(*ii*) trawl CP	50 percent	30 percent	20 percent
(*2*) hook-and-line ≥60 ft (18.3 m)LOA, and non-CDQ pot vessels ≥60 ft (18.3 m) LOA	60 percent	40 percent	
(*3*) jig vessels	40 percent	20 percent	40 percent
(*4*) all other nontrawl vessels	no seasonal apportionment		

* * * * *

3. In § 679.23, paragraph (e)(5)(i) introductory text is revised, and paragraph (e)(5)(iv) is added, to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(5) *Directed fishing for Pacific cod*—

(i) *Hook-and-line gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear is authorized only during the following two seasons:

* * * * *

(iv) *Jig gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with jig gear is authorized only during the following three seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., April 30;

(B)*B season.* From 1200 hours, A.l.t., April 30 through 1200 hours, A.l.t., August 31;

(C) *C season.* From 1200 hours, A.l.t., August 31 through 2400 hours, A.l.t., December 31.

* * * * *

[FR Doc. 03–21048 Filed 8–15–03; 8:45 am]

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Notices

Federal Register
Vol. 68, No. 159
Monday, August 18, 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

Submission for OMB Review; Comment Request

August 12, 2003.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding (a) 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; (b) the accuracy of the agency'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; (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, mechnanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela_Beverly_O OIRA_Submissio n@OMB.EOP,GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

Office of Procurement and Property Management

Title: Maximum Workweek—Construction Schedule.

OMB Control Number: 0505–0011.

Summary of Collection: In order to obtain goods or services such as construction services, the United States Department of Agriculture (USDA), like other Federal agencies, has established agency contracting offices to enter into Federal contracts. These offices employ contracting officers, who solicit bids or offers for work from businesses in the private sector. When USDA contracts for construction services, both the contracting officer and the contractor needs to establish a schedule for the work. The contractor needs to ensure that his weekly work schedule will not conflict with the time during which USDA may allow him access to the work site. The contracting officer needs to know when the contractor will be working in order to schedule on-site conferences, to perform quality assurance inspections, and to perform compliance checks required to enforce the Davis Bacon Act (40 U.S.C. 276a–276a–7). Such compliance checks are specifically required by the Federal Acquisition Regulations (FAR) to conduct employee interviews, to check the type of work being performed, to verify the number of pay classification of workers at the site, and to verify that posters informing workers of their rights are displayed at the site (FAR 22.406–7(b)). Contracting officers put the Maximum Workweek—Construction Schedule clause in solicitations and contracts for construction when the contractor's access to the work site may be restricted to certain times of the day or week.

Need and Use of the Information: The Office of Procurement and Property Management (OPPM) will collect information to determine when government inspectors or representatives will be needed at the site, and to schedule contractor access to the work site. The information is not collected unless the contracting officer anticipates problems with contractor access or scheduling government inspections. If the information were not collected, contracting offices would be unable to allocate contract administration resources efficiently.

Description of Respondents: Business or other for-profit.

Number of Respondents: 400.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 100.

Office of Procurement and Property Management

Title: Instructions for the Preparation of Technical and Business Proposals.

OMB Control Number: 0505–0013.

Summary of Collection: In order to obtain goods or services, the United States Department of Agriculture, like other Federal agencies, has established agency contracting offices to enter into Federal contracts. These offices employ contracting officers, who use various methods to award contracts for good or services. One method prescribed by Part 15 of the Federal Acquisition Regulation (48 CFR) is contracting by negotiation. In contracting by negotiation, contracting officers issue solicitations to request offers for required products or services from businesses in the private sector. Together with the solicitation document, the offeror's cost proposal and its technical and business proposals constitute the offer submitted to the contracting office for evaluation and acceptance. The technical proposal, together with the offeror's pricing, is needed to select the offeror who will be awarded a contract. The Agriculture Acquisition Regulation (AGAR) (48 CFR ch.4) prescribes the provision titled *Instructions for the Preparation of Technical and Business Proposals)* (48 CFR 452.215–71) helds an offeror preparing a proposal to address the factors on which it will be evaluated.

Need and Use of the Information: The Office of Procurement and Property Management (OPPM) will collect information to evaluate and determine the feasibility of the offeror's managaement, technical approach, and offered cost/price to provide the services and/or supplies required, if awarded a contract. If the information were not collected, OPPM would be unable to obtain goods and services required for its daily operations.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 3,600.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 115,200.

Office of Procurement and Property Management

Title: Brand Name or Equal Provision and Clause.

OMB Control Number: 0505–0014.

Summary of Collection: In order to obtain goods or services, the United States Department of Agriculture, like other Federal agencies, has established agency contracting offices to enter into Federal contracts. The Agriculture Acquisition Regulation (48 CFR ch. 4) and the (48 CFR 411.171), provision (48 CFR 452.211–70), and a clause (48 452.211–71) permits the use of ''brand name or equal'' purchase descriptions to procure commercial products. Such descriptions require the offeror on a supply procurement to identify the ''equal'' item being offered and to indicate how that item meets the salient characteristics stated in the purchase description. The use of brand name or equal descriptions eliminates the need for bidders or offerors to read and interpret detailed specifications or purchase descriptions.

Need and Use of the Information: The Office of Procurement and Property Management (OPPM) will collect information to determine from the descriptive information furnished whether the offered ''equal'' item meet the salient characteristics of the Government's requirements. If information were not collected, OPPM would spend more time developing purchase descriptions and offerors would spend more time reading and interpreting the purchase descriptions.

Description of Respondents: Business or other for-profit.

Number of Respondents: 26,678.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,668.

Office of Procurement and Property Management

Title: Procurement: Key Personnel Clause.

OMB Control Number: 0505–0015.

Summary of Collection: In order to obtain goods or services, the United States Department of Agriculture (USDA), like other Federal agencies, has established agency contracting offices to enter into Federal contracts. These offices employ contracting officers, who issue solicitations to request offers (proposals) for required products or services from businesses in the private sector. When USDA wishes to acquire research and development services (R&D), information technology (IT) design or support services, or advisory and assistance services, it must consider the capabilities of the personnel who the contractor assigns to the job. The contributions of certain contractor employees may be critical to the success of the work. Such employees are designated as ''Key Personnel.'' The Agriculture Acquisition Regulation (48 CFR ch.4) (48 CFR 437.110) and 48 CFR 452.237–74) prescribes the Key Personnel clause to collect information about key contractor personnel. The contracting officer uses the Key Personnel clause to require the contractor to inform USDA, if a key person will no longer be available to perform work on the contract. Contractors whose contracts include the key personnel clause are required to notify the contracting officer about proposed substitutions for key personnel identified in the contract.

Need and Use of the Information: The Office of Procurement and Property Management (OPPM) will collect information to determine whether the departure of a key person from the contractor's staff could jeopardize contract performance and to determine what accommodations or remedies may be taken. If the OPPM could not obtain information about departing key personnel, it could not ensure that qualified personnel continue to perform contract work.

Description of Respondents: Business or other for-profit; Non-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 300.

Office of Procurement and Property Management

Title: Progress Reporting Clause.

OMB Control Number: 0505–0016.

Summary of Collection: In order to obtain goods or services, the United States Department of Agriculture, like other Federal agencies, has established agency contracting offices to enter into Federal contracts. These offices employ contracting officers, who request bids or offers for work from businesses in the private sector using solicitations. In order to administer contracts for research and development services (R&D), or for advisory and assistance services (AAS), contracting officers need information about contractor progress in performing the contracts. The Agriculture Acquisition Regulation (48 CFR ch.4) (48 CFR 437.270(a)) and (48 CFR 452.237–76) prescribe the Progress Reporting Clause to collect information about contractor progress. Contracting officers include the Progress reporting Clause in R&D and AAS contracts to obtain information from the contractors about their performance.

Need and Use of the Information: The Office of Procurement and Property Management will collect information to compare actual progress and expenditures to anticipated performance and contractor representations on which the award was based. The information alerts the agency of technical problems; the need for additional staff resources or finding; and the probability of timely completion within the contract cost or price. If the contracting officers could not obtain progress report information, they would have to physically monitor the contractor's operation on a day-to-day basis throughout the performance period.

Description of Respondents: Business or other for-profit; Non-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 300.

Frequency of Responses: Reporting: Quarterly; Monthly.

Total Burden Hours: 5,400.

Foreign Agricultural Service

Title: Trade Adjustment Assistance for Farmers (TAA).

OMB Control Number: 0551–NEW.

Summary of Collection: The Trade Act of 2002 (HR 3009) (Pub. L. 107–210), signed into law on August 6, 2002, established a Trade Adjustment Assistance Program (TAA) for farmers. The primary objective of this new program is to provide technical and cash assistance to producers of raw agricultural commodities in cases where increased imports of a like or directly competitive product have contributed importantly to declines in domestic prices over a specified period of time.

Need and Use of the Information: The Foreign Agricultural Service (FAS) will collect information to permit producers to petition and apply for program benefits. The information is needed to determine eligibility to obtain benefits under the new program providing trade adjustment assistance for farmers and to ascertain the amount of payments an adversely affected producer is entitled to receive. The information collected will provide essential data and economic information for use by the FAS, Farm Service Agency, Economic Research Service, Extension Service, and other agencies within the Department.

Description of Respondents: Farms; Not-for-profit; Business or other for-profit.

Number of Respondents: 500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 7,000.

Farm Service Agency

Title: Disaster Assistance—General (7 CFR part 1945–A).

OMB Number Control: 0560–0170.

Summary of Collection: Subtitle C of the Consolidated Farm and Rural Development Act of 1972, as amended, authorizes emergency loss (EM) loans for the purpose of assisting farmers and ranchers who have suffered weather-related physical and production losses in areas declared by the President, designated by the Secretary of Agriculture, or named for physical loss loans by the Farm Service Agency (FSA) Administrator. For EM production loss loan, applicants must show a 30% loss in at least one basic farming enterprise. For physical losses, applicants must show that property damaged or destroyed is essential to the continued operation of the farming or ranching operations. Applicant must be unable to obtain commercial credit or recover from the disaster and meet the specific eligibility and repayment requirements. FSA will collect information to evaluate requests for a Secretarial natural disaster designation.

Need and Use of the Information: FSA will collect information to determine whether sufficient losses have been suffered to warrant a Secretarial natural disaster designation, determine whether extenuating circumstances exist to grant a natural disaster designation under the Secretary's discretionary authority. The information will be used by FSA to process State Governor requests for Secretarial natural disaster designations.

Description of Respondents: Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 2,889.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,452.

Food and Nutrition Service

Title: Federal Collection Methods for Food Stamp Program Recipient Claims.

OMB Control Number: 0584–0446.

Summary of Collection: The Debt Collection Improvement (DCIA), Food Stamp (FSA) and Privacy Act require that State agencies advise debtors of the intended referral to the Treasury Offset Program (TOP). TOP is a method used to collect debts owed for over-issued food stamp recipient claims. TOP offers debtors an opportunity to repay the claim, and offer debtors an opportunity to request a review of the validity of the collection action.

Need and Use of the Information: The information collected is used to operate Federal offset. State agencies collect this information to offset debts as a result of over-issuance of recipient claims. Without the information, compliance with the DCIA would not be possible and departmental participation in TOP would be jeopardized.

Description of Respondents: State, Local, or Tribal Government; Individual or households; Federal Government.

Number of Respondents: 279,119.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 56,123.

Food and Nutrition Service

Title: Consumer Study.

OMB Control Number: 0584–NEW.

Summary of Collection: Under Subtitle D of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171–3175), the Secretary of Agriculture is required to develop and implement a national food and human nutrition research and extension program, including the development of techniques to assist consumers in selecting food that supplies a nutritionally adequate diet. The Center for Nutrition Policy and Promotion (CNPP) has the authority to develop materials to aid the public in selecting food for good nutrition; coordinate nutrition education promotion and professional education projects with the Department; and consult with the Federal and State agencies, the Congress, universities, and other public and private organizations and the general public regarding food consumption and dietary adequacy.

Need and Use of the Information: CNPP will collect information using 8 focus group sessions with women ages 20–40 years. The information collected will help to expand the knowledge base concerning the public's perceived relationship between portion size, counting calories, and a healthy weight. The information collected will also assist CNPP in its efforts to develop campaign messages and materials to help Americans achieve or maintain a healthy weight through increased awareness of how much they eat.

Description of Respondents: Individuals or households.

Number of Respondents: 1,280.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 432.

Risk Management Agency

Title: General Administrative Regulations; Subpart V Submission of Policies, Provisions of Policies, and Rates of Premium.

OMB Control Number: 0563–New.

Summary of Collections: The Federal Crop Insurance Corporation (FCIC) amends the procedures for the submission of policies, plans of insurance, or other rates or premium by insurance companies, entities or other persons. Public Law 96–365 provided for nationwide expansion of a comprehensive crop insurance program. The Federal Crop Insurance Act, as amended, expanded the role of the crop insurance to be the principal tool for risk management by producers of farm products and required that the crop insurance program operate on an actuarially sound basis.

Need and Use of the Information: The Board will review an applicant's submissions to determine if the interests of agricultural producers and taxpayers are protected; the submission is actuarially appropriate; appropriate insurance principles are followed; the requirements of the Act are met; and that sound, reasonable and appropriate underwriting principals are followed. If the information is incomplete, the submission will be disapproved.

Description of Respondents: Business or other-for-profit; Individuals or households.

Number of Respondents: 210.

Frequency of Responses: Recordkeeping: Reporting; Other.

Total Burden Hours: 57,000.

Rural Utilities Service

Title: 7 CFR 1703, subparts D, E, F, and G, Distance Learning and Telemedicine Loan and Grant Program.

OMB Control Number: 0572–0096.

Summary of Collection: The Rural Utilities Service (RUS) is a credit agency of the Department of Agriculture and is authorized by Chapter 1 of subtitle D of the Food, Agriculture, Conservation and Trade Act of 1990. The purpose of the Distance Learning and Telemedicine Loan and Grant program is to improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals and rural residents.

Need and Use of the Information: The various forms and narrative statements required are collected from eligible applicants such as rural community facilities, schools, libraries, hospitals, and medical facilities. The purpose of this information is to determine such factors as: eligibility of the applicant; the specific nature of the proposed project; the purposes for which loan and grant funds will be used; project financial and technical feasibility; and compliance with applicable laws and regulations.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondent: 280.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 14,693.

Rural Housing Service

Title: 7 CFR 1924–F, Complaints and Compensation Defects.

OMB Control Number: 0575–0082.

Summary of Collection: Section 509 of Title V of the Housing Act of 1949, as amended, authorizes the Rural Housing Service (RHS) to pay the costs for correcting defects or compensation borrowers of Section 502 Direct loan funds for expenses arising out of defects with respect to newly constructed dwellings and new manufactured housing units with authorized funds. This regulation provides instruction to all RHS personnel to enable them to implement a procedure to accept and process complaints from borrowers/owners against builders and dealers/contractors, to resolve the complaint informally and when the complaint involves structural defects which cannot be resolved by cooperation of the builder or dealer/contractor, authorizes expenditure to resolve the defect with grant funds. Resolution could involve expenditure for (1) repairing defects; (2) reimbursing for emergency repairs; (3) pay temporary living expenses or (4) convey dwelling to RHS with release of liability for the RHS loan.

Need and Use of the Information: The information is collected from agency borrowers and the local agency office serving the county in which the dwelling is located. This information is used by Rural Housing Staff to evaluate the request and assist the borrower in identifying possible causes and corrective actions. The information is collected on a case-by-case basis when initiated by the borrower. Without this information, RHS would be unable to assure that eligible borrowers would receive compensation to repair defects to their newly constructed dwellings.

Description of Respondents: Business or for-profit.

Number of Respondents: 500.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 200.

Rural Housing Service

Title: 7 CFR 1965–B Security Servicing for Multiple Family Housing Loans.

OMB Control Number: 0575–0100.

Summary of Collection: The Rural Housing Service Loan and Grant Program under Sections 514, 515, 516, and 521 of Title V of the Housing Act of 1949, as amended, provides loans and grants to eligible recipients for the development and operation of rural rental housing projects. These programs are intended to meet the housing needs for rural persons or families including senior citizens, the handicapped or disabled, and domestic farm laborers of low to moderate-income. The information will be prepared and submitted to the agency by the borrower or the borrower's representative. Agency forms and guides will be provided to assist the borrower or the borrower's designee in the preparation of information and to streamline the collection and review of the information.

Need and Use of the Information: In order to assist its borrowers to operate and maintain these properties to meet program objectives, improve the agency's ability to assure the continued viability of the program, information needs to be collected to process borrower initiated requests. The borrower or grantee organizations are required to prepare periodic agency financial reports to enable the agency to fulfill its statutory mandate for supervision of borrower operations. Information is also required for eligibility determinations to allow continued participation in the program, as necessary to achieve the objectives of the loan and to protect the interest of the Government, the tenants, and the community.

Description of Respondents: Reporting: On occasion.

Number of Respondents: 945.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1587.

Agricultural Marketing Service

Title: 7 CFR part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards).

OMB Control Number: 0581–0124.

Summary of Collection: The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide consumers with voluntary Federal meat grading and certification services that facilitate the marketing of meat and meat products. This is accomplished by providing meat and meat products that are uniform in quality. The Meat Grading and Certification (MGC) Branch provides these services under the authority of 7 CFR part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards). The Agricultural Marketing Service (AMS) will collect information using forms LS–313, ''Application for Service,'' and LS–315, ''Application for Commitment Grading or Certification Service.''

Need and Use of the Information: AMS will collect information to identify the responsible authorities in establishments requesting services and to initiate billing and collection accounts. A signed (Form LS–313 or LS–315) serves as a legal agreement between USDA users of the services and constitutes authorization for any employee of AMS to enter the establishment for the purpose of performing official functions under the regulations. Without a properly signed and approved form, AMS officials would not have the authority to enter the premises to provide grading and/or certification services.

Description of Respondents: Business or other for-profit.

Number of Respondents: 450.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 212.

Agricultural Marketing Service

Title: Olives Grown in California.

OMB Control Number: 05881–0142.

Summary of Collection: Marketing order 932 (7 CFR part 932), covering the handling of olives grown in California, emanates from enabling legislation (The Agricultural Marketing Agreement Act of 1937, Sections 1–19, 48 Stats. 31, as amended; 7 USC 601–674). The order authorizes the issuance of grade and size standards, and incoming and outgoing inspection requirements. The order also has authority for research and development projects, including paid advertising. Forms were developed as a means for persons to file required information with the committee relating to the olive supplies, shipments, and dispositions.

Need and Use of the Information: Agricultural Marketing Service (AMS) will collect information to determine olive inventories, acquisition of olives, shipments, and disposition. Authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarters' staff, and authorized employees would use the information collected.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 691.

Frequency of Responses: Recordkeeping; On occasion; Other (2–6 years).

Total Burden Hours: 2,850.

Risk Management Agency

Title: Multiple Peril Crop Insurance.

OMB Control Number: 0563–0053.

Summary of Collection: Previous amendments to the Federal Crop

Insurance Act expanded the role of the crop insurance program to be the principal tool for risk management by producers of farm products and provided that crop insurance program operate on an actuarially sound basis, provided for independent review of crop insurance products by person experienced as actuaries and in underwriting, and required that the crop insurance program operate on an actuarially sound basis. To meet these goals, existing crop programs must be improved and expanded, new crop products developed, and new insurance concepts studied for possible implementation. Federal Crop Insurance Corporation (FCIC) offers a Standard Reinsurance Agreement to eligible crop insurance companies under which FCIC will use data elements instead of standards forms.

Need and Use of the Information: FCIC requires crop acreage information to be submitted to the insurance agent by each producer on or before a specific date. The basic provision for the reporting of acreage covers information such as the name of the crop, the number of timely planted acres, person sharing in the crop, location of the acreage, etc. This information is used to determine liability, premium and subsidy. Federal agencies, Risk Management Agency, crop insurance companies reinsured by FCIC, and other agencies that require such information in the performance of their duties may use this information. If the information were not collected by specified dates, the producers may not have insurance coverage or the amount of insurance may be reduced and the crop insurance program would not be administered in an actuarially sound manner.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 1,310,553.

Frequency of Responses; Recordkeeping; Reporting: Quarterly; Weekly; Semi-annually; Monthly; Annually.

Total Burden Hours: 1,447,152.

Sondra A. Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 03–20958 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

National Sheep Industry Improvement Center; Inviting Grant Proposals for the Sheep and Goat Industry Grant Initiative

AGENCY: National Sheep Industry Improvement Center, USDA.

ACTION: Notice.

SUMMARY: The National Sheep Industry Improvement Center (NSIIC) announces the availability of approximately $300,000 in competitive grants for product or business development, producer information or education, marketing and promotion for sheep or goats or their products, genetic retention or animal health. Funds have been made available by the Board of Directors of the National Sheep Industry Improvement Center (NSIIC) to be awarded in Fiscal Year (FY) 2004 with projects completed by the end of FY 2005. The intent is to fund a variety of proposals that will benefit the U.S. sheep and goat industries.

DATES: Completed proposals must be received no later than November 17, 2003. Proposals received after that date will not be considered.

ADDRESSES: Completed proposals and other required materials should be submitted to Jay B. Wilson, Executive Director/CEO, National Sheep Industry Improvement Center, U.S. Department of Agriculture, P.O. Box 23483, Washington, DC 20026–3483, if using the U.S. Postal Service; or Room 2117, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250, if using other carriers. Telephone (202) 690–0632 or (207) 236–6567.

FOR FURTHER INFORMATION CONTACT: Jay B. Wilson, Executive Director/CEO, National Sheep Industry Improvement Center, U.S. Department of Agriculture, P.O. Box 23483, Washington, DC 20026–3483, if using the U.S. Postal Service; or Room 2117, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250, if using other carriers. Telephone (202) 690–0632 or (207) 236–6567.

SUPPLEMENTARY INFORMATION:

General Information

The Board of Directors of the National Sheep Industry Improvement Center (NSIIC) makes this grant initiative of up to $300,000 available. The NSIIC is authorized under 7 U.S.C. 2008j to make these grants. A fund is established in the Treasury of the United States, without fiscal year limitations, to provide funds for the enhancement and marketing of sheep or goat products in the United States. Grants are authorized by section 375(e)(3)(A) of the Consolidated Farm and Rural Development Act.

Projects that are submitted in the proposals should be completed in a timely fashion as provided in the proposal, but under no circumstances later than September 30, 2005. The primary objective of the Sheep and Goat Industry Grant Initiative (SGIGI) is to fund a number of diverse projects that will benefit the U.S. sheep or goat industries through product or business development, producer information or education, marketing and promotion for sheep or goats or their products, genetic retention or animal health at the regional, national or international level. The program is administered through USDA, NSIIC.

Eligible Applicants

An eligible entity is an organization that promotes the betterment of the United States sheep or goat industries that is: (a) A public, private, or cooperative organization; (b) an association, including a corporation not operated for profit; (c) a federally recognized Indian Tribe; or (d) a public or quasi-public agency. Individuals are ineligible. Eligible entities must have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence. Under the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 501 (c)(4)) which engages in lobbying activities, is not eligible to apply.

Use of Funds

Use of funds should directly impact the U.S. sheep or goat industries through product or business development, producer information or education, marketing and promotion for sheep or goats or their products, genetic retention, or animal health programs. Funds may not be used to: (a) Pay costs of preparing the application package; (b) pay costs incurred prior to the effective date of the grant; (c) conduct duplicative research; or (d) fund political activities. Preference may be given to proposals that have over 50 percent of the project costs in matching funds, including in kind contributions; Overhead costs cannot exceed 25 percent.

Available Funds and Award Limitations

The total amount of funds available for grants in FY 2004 is approximately $300,000. It is anticipated that all funds will be awarded in FY 2004 for projects that will be completed by September 30, 2005. It is expected that there will be proposals submitted that address a variety of needs related to the U.S. sheep and goat industries. Awards will be segregated so that a variety of needs will be addressed by the funded proposals. The actual number of grants

funded will depend on the quality of proposals received and the amount of funding requested. A proposal may be partially funded or funded in its entirety. The maximum amount of Federal funds through this grant initiative awarded for any one proposal will be $50,000.

Selection Criteria

The proposal will initially be reviewed to determine whether the entity submitting the proposal meets the eligibility requirements and whether the proposal application contains the information required. After this initial evaluation, the following criteria will be used to rate and rank proposals received in response to this notice of funding availability. Failure to address any one of the criteria will disqualify the proposal. Equal weight shall be given to each of the criterion listed below and points will be awarded to each criterion on a scale of 5, 4, 3, 2, 1. A score of 5 indicates that the proposal was judged to be highly relevant to the criterion and a score of 1 indicates that the proposal was judged not to sufficiently address the criterion.

Each proposal will be evaluated and judged using the following criteria:

1. Potential Industry Impact—Describe the proposed project and demonstrate how it will stimulate the U.S. sheep or goat industries. Provide a detailed analysis of the sheep or goat industry issue that is being addressed by the proposal by including the:

(a) Product or group that will be impacted by the proposal;

(b) Geographic area affected;

(c) Target audience or end user; and

(d) Expected results. The NSIIC will evaluate whether the industry issue and need are well-defined and the proposed project provides an effective and efficient approach to resolving the identified need.

2. Industry Commitment—Describe the commitment of the producers, processor, end-users or other involved parties in participating in the proposed project. This may include, but is not limited to, individual producers, producer groups, processors, seminar participants, local organizations, local or state governments or trade associations. The NSIIC will evaluate whether there is a commitment from all who are expected to participate and benefit from the proposed project.

3. Business Soundness—Provide a timetable and objectives along with a quantifiable benchmark and expected results. The NSIIC will evaluate whether the proposal includes (a) a clear objective; (b) well-defined tasks that will accomplish the objectives; (c) realistic benchmarks; and (d) a realistic timetable for the completion of the proposed tasks and whether a business strategy had been adequately developed?

4. Financial Feasibility—Provide a well-defined budget for the proposal. The NSIIC will evaluate whether the funding requirements and budget for the project are well defined and financially feasible and the matching funds or other resources that will be used to leverage the requested funds in the proposal are identified.

5. Management Ability—Identify the management team needed to complete the proposal objectives and describe their qualifications. The NSIIC will evaluate whether the management team is identified and capable of implementing the proposal.

Selection Process

The Board of Directors of the NSIIC will evaluate proposal applications. Applications will be evaluated competitively and points awarded as specified in the Selection Criteria section of this notice. Grants will be awarded on a competitive basis to eligible entities. A proposal may be partially funded. After assigning points based upon the selection criteria, applications will be funded in rank order until all available funds have been expended. The Board of Directors reserves the right to award up to five additional points in order to provide a diversity of projects targeting various (1) situations, (2) geographic areas, or subjects , or for proposals with over 50 percent in matching funds. Projects that are approved for further processing will be subject to the grant terms that are negotiated between the applicant and the Board of Directors including, but not limited to, the amount to be funded, project goals, timetables, completion date or other terms as deemed necessary.

Proposal Submission

All proposals, except for forms, are to be submitted on standard 8.5″ x 11″ paper with typing on one side of the page only. In addition, margins must be at least 1″, type must be 12 characters per inch (12 pitch or 10 point) or larger, no more than 6 lines per inch, and there should be no page reductions.

Content of a Proposal

A proposal should contain the following:

1. Form SF–424, ''Application for Federal Assistance.''

2. Form SF–424A, ''Budget Information-Non Construction Programs.''

3. Form SF–424B, ''Assurances-Non Construction Programs.''

4. Table of Contents—For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the required forms. The Table of Contents should include page numbers for each component of the proposal. Page numbering should begin immediately following the Table of Contents.

5. Project Summary: The proposal must contain a project summary of 1 page or less on a separate page. This page must include the title of the project and the names of the primary project contacts and the applicant organization, followed by the summary. The summary should be self-contained and should describe the overall goals and relevance of the project. The summary should also contain a listing of all organizations involved in the project. The Project Summary should immediately follow the Table of Contents.

6. Project Narrative: The narrative portion of the Project Proposal is limited to 10 pages of text and should contain the following:

a. Introduction. A clear statement of the goals and objectives of the project. The problem should be set in context of the present-day situation. Summarize the body of knowledge which substantiates the need for the proposed project.

b. Rationale and Significance. Substantiate the need for the proposed project. Describe the impact of the project on the U.S. sheep or goat industry. Describe the project's specific relationship to the segment of sheep or goat industry issue, product or market being addressed.

c. Objectives and Approach. Discuss the specific objectives to be accomplished under the project. A detailed description of the approach must include:

(i) Techniques or procedures used to carry out the proposed activities and for accomplishing the objectives; and

(ii) The results expected.

d. Timetable. Tentative schedule for conducting the major steps of the project.

e. Evaluation. Provide a plan for assessing and evaluating the accomplishments of the stated objectives during the project and describe ways to determine the effectiveness (impact) of the end results upon conclusion of the project. Awardees will be required to submit written project performance reports on a semi-annual basis.

f. Coordination and Management Plan. Describe how the project will be coordinated among various participants

and the nature of the collaborations. Describe plans for management of the project to ensure its proper and efficient administration.

What To Submit

An original and 10 copies must be submitted. Each copy must be stapled in the upper left-hand corner (*Do Not Bend*). All copies of the proposal must be submitted in one package.

Other Federal Statutes and Regulations That Apply

Several Federal statutes and regulations apply to proposals considered for review and to grants awarded by USDA. These include, but are not limited to:

7 CFR part 1.1—USDA implementation of the Freedom of Information Act.

7 CFR part 15a—USDA implementation of title VI of the Civil Rights Act of 1964.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations.

7 CFR part 3016—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7 CFR part 3017—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for drug-free workplace (grants).

7 CFR part 3018—New Restrictions on Lobbying.

7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR part 3052—Audits of State, Local Governments, and Non-Profit Organizations.

The terms of the above parts will be incorporated in a grant made by the NSIIC.

Awardee Requirements, Payments, and Service

These grants will be awarded, disbursed, and serviced in accordance with 7 CFR parts 3015, 3016, and 3019. Awardees will furnish the NSIIC with reports in accordance with this notice and 7 CFR parts 3015, 3016, and 3019.

Paperwork Reduction Act

The reporting requirements contained in this notice have received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0570–0048. However, in accordance with the Paperwork Reduction Act of 1995, RBS will seek standard OMB approval of the reporting requirements contained in this Notice and hereby opens a 60-day public comment period.

Public Burden in This Notice

Form SF–424, ''Application for Federal Assistance.'' This form is used by applicants as a required face sheet for applications for Federal assistance.

Form SF–424A, ''Budget Information-Non Construction Programs.'' This form must be completed by applicants to show the project's budget breakdown, both as to expense categories and the division between Federal and non-Federal sources.

Form SF–424B, ''Assurances-Non Construction Programs.'' The applicant must complete this form to give the Federal government certain assurances that the applicant has the legal authority to apply for Federal assistance and the financial capability to pay the non-Federal share of project costs. The applicant also gives assurance it will comply with various legal and regulatory requirements as described in the form.

Grantees will be required to sign a grant agreement acceptable to the NSIIC.

Reporting Requirements

In addition to any other required reports, awardees will be required to submit written project performance reports on a semi-annual basis and a final report at the completion of the project. The project performance report and final report shall include, but need not be limited to: (a) A comparison of timeline, tasks and objectives outlined in the proposal as compared to the actual accomplishments; (b) If report varies from the stated objectives or they were not met, the reasons why established objectives were not met; (c) Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives; (d) Objectives established for the next reporting period; and (e) Status of compliance with any special conditions on the use of awarded funds.

Estimate of Burden: Public reporting burden for this collection is estimated to range from 10 minutes for some forms to 8 hours for the proposal per response.

Respondents: Any eligible entity as described in the ''Eligible Applicants'' section of this notice.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 2.

Estimated Number of Responses: 105.

Estimated Total Annual Burden of Respondents: 383 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of National Sheep Industry Improvement Center (NSIIC) including whether the information will have practical utility; (b) the accuracy of NSIIC's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information.

Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 12, 2003.

Jay B. Wilson,

Executive Director/CEO, National Sheep Industry Improvement Center.

Sheep and Goat Industry Grant Initiative Grant Agreement

1. Authorization. The National Sheep Industry Improvement Center (NSIIC) is authorized to use grants under 7 U.S.C. 2008j.

2. Parties. This Grant Agreement (Agreement) between the [*Grantee's name*] (Grantee), and the United States of America, acting through the National Sheep Industry Improvement Center (NSIIC) of the Department of Agriculture (Grantor).

3. Award Amount. Grantor agrees to make available to the Grantee for the purposes of this Agreement Grant Funds of up to [*$ xx,xxx.xx, amount funded*] (Grant Funds) for the proposal submitted by the grantee for [*name of project*] under the Sheep and Goat Industry Grant Initiative (SGIGI) and the Grantee agrees not to exceed the amount approved. The funds will be advanced or reimbursed as provided for in this Agreement.

4. Citizenship. The Grantee hereby certifies that the outstanding interest in

the project has membership or is owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

5. Purpose. Grant Funds will only be used for the purposes and activities specified in the Proposal submitted under the SGIGI, including any attachments, amendments or conditions approved by the Grantor. Any uses not provided for in the approved Proposal must be approved in writing by the Grantor in advance.

6. Project Period.

(a) Effective Date: The grant will be considered approved on the date that Grantor signs the Agreement.

(b) Date of Completion: Grantee shall strive to use the proceeds of this Grant promptly in accordance with this Agreement, unless otherwise provided by law. If any part of the Grant Funds have not been used by September 30, 2005, Grantor will cancel the obligation of any funds not yet delivered and demand the return of any delivered funds that have not been used in accordance with this Agreement.

7. Further Provisions. This section establishes further provisions that must be understood and agreed to by the Grantee.

(a) All of the terms and provisions of the application submitted by the Grantee for this SGIGI, including any attachments, amendments or conditions that are otherwise not in conflict with this Agreement are attached to and incorporated into this agreement. Any changes to these documents or this Agreement must be approved in writing by the Grantor,

(b) Grantee certifies that it is in compliance with, and will comply in the course of the Agreement with grant conditions and all applicable laws, regulations, Executive Orders, or other applicable requirements,

(c) The provisions of the following are incorporated into this Agreement by reference: 7 CFR part 3015—''USDA Uniform Federal Assistance Regulations''; 7 CFR part 3016—''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments''; 7 CFR part 3017—''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)''; 7 CFR part 3018—''New Restrictions on Lobbying''; 7 CFR part 3019—''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations''; and 7 CFR part 3052—''Audits of State, Local Governments, and Non-Profit Organizations,''

(d) The Grantee shall not encumber, transfer or dispose of any property, equipment or other asset, or any part thereof, acquired wholly or in part with Grantor funds without the written consent of the Grantor,

(e) Grantees shall adequately control and safeguard all assets associated with the grant to ensure that they are used solely for authorized purposes,

(f) Grantor shall monitor performance in accordance with the applicable terms of the Agreement. Grantor reserves the right to monitor meetings and request documents applicable to the terms of the Agreement.

8. *Assurances.* Grantee has executed.

(a) Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions,'' to certify that your organization is not debarred or suspended from Government assistance,

(b) AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions,'' from anyone you do business with as a result of this Government assistance,

(c) AD–1950, ''Certification Regarding a Drug-Free Workplace Requirements (Grants)'' to certify you will provide a drug-free awareness program for employees,

(d) RD 400–1, ''Equal Opportunity Agreement,''

(e) ''Certification Regarding Lobbying—Contracts, Grants, Loans and Cooperative Agreement.''

9. Accounting, Audits and Reporting Requirements.

(a) Generally Accepted Accounting Principles: The Grantee agrees to account for all amounts associated with this grant using Generally Accepted Accounting Principles. Records must at least include:

(i) financial records that identify the source of all funds used for grant-supported activities, including Grant Funds, any matching funds, other funds, and;

(ii) source documentation to support activities.

(b) Audit: The project will be audited by a Certified Public Accountant annually or as otherwise agreed to in writing by the Grantor. All audits will be in accordance with Generally Accepted Accounting Principles. The audit for the years the Grantee receives this financial assistance will be conducted in accordance with 7 CFR part 3052. Audits are due within 90 days after September 30 of the respective year and the Grantor is to receive a copy of this audit,

(c) Reports: The grantee will provide periodic reports as required by the Grantor. A financial status report and a project performance report will be submitted by the Grantee on a semi-annual basis (due each March 31 and September 30). The financial status report must show how Grant Funds and any matching funds have been used to date and project the funds needed and their purposes for the next six-month period. A final report may serve as the last semi-annual report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance report and final report shall include at least:

(i) A comparison of timeline, tasks and objectives outlined in the proposal as compared to the actual accomplishments,

(ii) If report varies from the stated objectives or they were not met, the reasons why established objectives were not met,

(iii) Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives,

(iv) Objectives established for the next reporting period, and

(v) Status of compliance with any special conditions on the use of awarded funds.

(d) Proposal Results: Grantee shall deliver the results of any study or activity to the Grantor upon completion of each task outlined in the proposal. These include, but are not limited to, feasibility studies, marketing plans, business operations plans, articles of incorporation and bylaws. All items delivered to the Grantor will be held as proprietary information to the extent provided by law.

(e) Record Retention: Financial records, supporting documents, statistical records, and all other records pertinent to the grant must be kept for a period of at least 3 years after grant closing, except that the records shall be retained beyond the 3-year period if audit findings have not been resolved. Microfilm or photocopies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts, and transcripts.

10. Funding.

(a) Payment: Requests for cash advances should be for the minimum

amount needed and timed to the actual, immediate cash requirements for carrying out the grant purpose. The funds will be reimbursed or advanced based on submission of Standard Form 270, ''Request for Advance or Reimbursement.''

(b) Distribution of Funds: Once the Agreement is entered into, grant funds will be transferred electronically to an account specified by the Grantee.

(c) Pre-award costs: The grantee may incur or claim no cost prior to the Effective Date as provided for in this Agreement.

11. Code of Conduct and Conflict of Interest. Conflict of interest for the purpose of this Agreement is defined in 7 U.S.C. 2008j and Grantee agrees to disclose any conflict of interest to Grantor.

12. Other Parties. This Agreement is not for the benefit of third parties. Grantor shall not be under any obligation to any such parties, whether directly or indirectly interested in this Agreement, to pay any charges or expenses incidental to compliance by Grantee with any of the duties or obligations imposed hereby.

13. Event of Default and Remedies.

(a) Events of Default of Grantee. By delineation and not limitation, any of the following occurrences shall be an ''event of default''. Written notice of default shall be provided within 90 days of such occurrence of an event of default:

(i) Any representation or warranty made by the Grantee in connection with this Agreement shall prove to have been false or misleading in any material respect on or as of the date made or deemed made,

(ii) Failure, inability or unwillingness of Grantee to carry out or comply with the terms or conditions of this Agreement, or any applicable laws,

(iii) The Grantee becomes insolvent, or ceases being able, or admits in writing to its inability to pay its debts as they mature, suspends its business operations, become a debtor in a bankruptcy proceeding or makes a general assignment for the benefit of, or enters into any composition or arrangement with, creditors, proceeds with the appointment of a receiver, trustee or liquidator, or like action and is not dismissed within 90 days.

(iv) A judgement or other like order for payment is rendered against the Grantee or any material adverse change occurs in the Grantee's financial condition.

(v) Submission or making of any report, statement, warranty, or representation by Grantee or agent on its behalf to Grantor in connection with the grant hereunder which is false, incomplete or incorrect in any material respect.

(b) Remedies:

(i) Upon the occurrence and during the continuation of any event of default, Grantor shall have no obligation to continue funding the Grantee as contemplated in this Agreement. Accordingly, Grantor shall suspend operations contemplated by this Agreement until the declaration of default is cured and Grantor notifies in writing such acknowledgment of cure,

(ii) The Grantee shall have 60 days from the notice of default to propose remedies and cures to Grantor to remove the event of default,

(iii) Grantor reserves the right to waive any and all events of default. Exercise of this waiver shall not preclude Grantor from declaring a similar future event as an event of default.

14. Notice. All notices hereunder and for whatever purpose, including declaration of default, shall be in writing and shall be deemed to be duly given upon delivery if personally delivered or sent by telecommunication (facsimile or e-mail) or 3 days after mailing if sent by express, certified or registered United States Postal Service mail, to the parties. The grantees address and contact person shall be the one provided on SF 424 and the Grantor shall be the National Sheep Industry Improvement Center, USDA, PO Box 23483, Washington, DC 20026–3483, if using the U.S. Postal Service or Room 2117, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250 if using other carriers.

15. Amendments, Termination and Changes. The Agreement may be amended, changed or terminated by mutual consent of the parties in writing.

(a) Amendment: This Agreement may be amended with the mutual written consent of the Parties.

(b) Scope of Work: Any changes in project costs, source of funds, scope of services, or any other changes in the project or applicant must be reported to and approved by the Grantor by written amendment of this Agreement. Any changes not approved by the Grantor shall be cause for deobligating grant funding.

(c) Termination: The Agreement may be terminated by either party upon 30 days' notice in writing to the other party.

16. Conflict. Nothing herein is intended to conflict with current USDA directives. If the terms of this agreement are inconsistent with existing law or agency directives, then those portions of this agreement which are determined to be inconsistent shall be invalid, but the remaining terms and the agreement will remain in effect. All necessary changes will be accomplished either by an amendment to this agreement or by entering into a new agreement, whichever is deemed expedient to the interest of both parties.

17. In witness whereof, Grantee has this day authorized and caused this Agreement to be executed by:

Attest

_____

(Grantee)

_____

(Authorized Grantee Signature)

_____

(Date)

_____

(Title)

United States of America
National Sheep Industry Improvement Center

_____

(Grantor)

_____

(Name) (Title)

_____

(Date)

[FR Doc. 03–20961 Filed 8–15–03; 8:45 am]
BILLING CODE 1351–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Custer National Forest Weed Treatment EIS, Custer National Forest, Stillwater, Park, Carbon, Sweetgrass, Rosebud, Powder River, and Carter Counties, Montana, and Harding County, SD

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environment impact statement.

SUMMARY: The Custer National Forest is proposing to continue control of undesirable vegetation (weeds) through the integration of mechanical, biological, ground and aerial (helicopter) herbicide control methods. The Custer National Forest is currently treating weeds under decisions made in the 1987 Custer National Forest Noxious Weed Environmental Impact Statement and Records of Decision.

Weeds are considered undesirable vegetation that can alter ecosystems or cause economic loss. Undesirable vegetation includes invasive plants that can alter ecosystem processes, including productivity, hydrologic function, nutrient cycling, and natural disturbance patterns such as frequency and intensity of wildfires. Changing these processes can lead to displacement of native plant species,

eventually impacting wildlife and plant habitat, recreational opportunities, livestock forage, and scenic values. Impacts to these values can result in economic loss due to costs of treatment and opportunities foregone. Other undesirable vegetation includes poisonous plants that can cause economic loss to holders of grazing permits.

The Forest Service has identified that at least 1,300 net acres across the Custer National Forest that are in a downward trend from desired conditions due to the infestation of undesirable vegetation. The Forest Service will evaluate these known infestations and high-risk areas or conditions that may cause infestations over the next ten to fifteen years with the goal of reducing the spread and density of undesirable vegetation to allow desirable native vegetation to re-establish and regain vigor and reduce economic loss. Based on previous trend information, it is estimated that infestations could double to approximately 2,600 net acres over the next ten to fifteen years based on the Forest Service's ability to treat weeds at historic funding levels. The purpose and need for this project is for the Forest Service to improve the trend of the ecological condition toward desirable vegetation, reduce economic loss, and allow for adaptive management to treat anticipated new infestations across the Custer National Forest over the next ten to fifteen years. The proposed actions being considered to achieve the purpose and need include implementing an integrated pest management program aimed at controlling new starts, priority areas and areas of minor infestations, and implementing holding actions on areas of existing large infestations.

DATES: Comments concerning the scope of the analysis should be received in writing on or before September 15, 2003.

ADDRESSES: Send written comments to Forest Supervisor, Custer National Forest, 1310 Main St., Billings, Montana 59105.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Kim Reid, Project Coordinator, 1310 Main St., Billings, Montana 59105, phone (406) 657–6200 ext. 233, or e-mail *kreid@fs.fed.us.*

SUPPLEMENTARY INFORMATION: These management activities would be administered by the Custer National Forest in Stillwater, Park, Carbon, Sweetgrass, Rosebud, Powder River, and Carter Counties, Montana, and Harding County, South Dakota. The EIS will tier to the 1987 Custer National Forest and Grasslands Land and Resource Management Plan (Forest Plan), which provide the overall management direction for the area. The proposed action is consistent with the Forest Plan. The purpose of the Forest Service proposal is to further movement towards desired conditions outlined in the Forest Plan, by:

- Protecting the natural condition and biodiversity of the Custer National Forest by preventing or limiting the spread of aggressive, non-native plant species that displace native vegetation.
- Promptly eliminating new invaders (species not previously reported in the area) before they become established.
- Reducing known and potential weed seed sources on trailheads and campsites, along main roads and trails, within powerline corridors, and in wildlife and livestock use areas.
- Preventing or limiting the spread of established weed into areas containing little or no infestation.
- Protecting sensitive and unique habitats including the Absaroka-Beartooth Wilderness Area, West Fork of Rock Creek (municipal watershed for Red Lodge), critical winter ranges, research natural areas, riparian areas, and sensitive plant populations.
- Reducing economic loss from livestock poisoning.

The proposed actions will be consistent with the Forest Plan, which provides goals, objectives, standards and guidelines of the various activities and land allocations on the forest. The Forest Plan allocates the project area into twenty management areas; Weeds occur within all twenty management areas. Private lands are also included within the project area boundary. Although excluded from Forest Service activities, project access and the condition of private lands will be considered during alternative development and when analyzing potential cumulative effects.

The key issue topics identified to date include:

- The current and potential impacts of weeds on natural resources such as critical big game habitat, native plant communities, wilderness values, watersheds, and threatened, endangered, or sensitive species, as well as impacts to economic factors.
- Economics, effectiveness, and potential impacts of various control methods on natural resources.
- Potential effects on non-target native plants and associated values, wildlife and fish populations, and human health from the application of herbicides.

The areas the Forest Service plan to analyze include:

Ranger district	Maximum treatment acreage [1]	Location township, range
Beartooth	400	Between T35—T9S and between R13E–R20E; Between T7S–T8S and between R25E to R28E (Principle Meridian).
Sioux	500	Between TIN–T2N and between R57E–R59E; T1S and between R57E to R58E; Between T1S–T3S and between R60–62 (Principle Meridian); T16N–T22N and between R1E–R9E (Black Hills Meridian).
Ashland	1,700	Between T1S–T7S and between R43E–R48E (Principle Meridian).

[1] These are the maximum projected treatment acres. Actual treatment acres may be less.

A range of reasonable alternatives will be considered, including a no action alternative. Other alternatives will examine various combinations of weed treatment. Based on the issues gathered through scoping, the action alternatives will vary in the amount and location of acres considered for treatment and the number, type, and location of activity.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, tribes and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. Continued scoping and public participation efforts will be used by the interdisciplinary team to identify new

issues, determine alternatives in response to the issues, and determine the level of analysis needed to disclose potential biological, physical, economic, and social impacts associated with this project.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by Spring 2004. The EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register.** At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is important that those interested in this proposal on the Custer National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled for completion by the fall of 2004. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. Nancy T. Curriden, Forest Supervisor of the Custer National Forest, is the responsible official. The Forest Supervisor will decide which, if any, of the proposed project alternatives will be implemented. The decision and reasons for the decision will be documented in appropriate Records of Decision. Those decisions will be subject to Forest Service appeal regualtions (36 CFR part 215).

Dated: August 12, 2003.

Nancy T. Curriden,

Forest Supervisor.

[FR Doc. 03–20962 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–00–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on September 9, 2003, at the Inn By The Lake, 3300 Lake Tahoe Blvd., South Lake Tahoe, CA. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held September 9, 2003, beginning at 9 a.m. and ending at 5 p.m.

ADDRESSES: The meeting will be held at Inn By The Lake, 3300 Lake Tahoe Blvd., South Lake Tahoe, CA 96150.

FOR FURTHER INFORMATION CONTACT: Maribeth Gustafson or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Basin Executives Committee. Items to be covered on the agenda include: USFS Lake Tahoe Restoration Act priority list review, Taylor Creek Visitor Center update, transportation issues in the Lake Tahoe Basin, review of the Army Corps of Engineers framework study, the Taylor Creek visitor center, and public comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: August 11, 2003.

Maribeth Gustafson,

Forest Supervisor.

[FR Doc. 03–20991 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Crook County Resource Advisory Committee, Sundance, WY, USDA, Forest Service.

ACTION: Notice meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Monday, September 15, 2003 in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on September 15, begins at 6:30 p.m., at U.S. Forest Service, Bearlodge Ranger District office, 121 South 21st Street, Sundance, Wyoming. Agenda topics will include: Project proposals for fiscal year 2004, updates on previously funded projects and nominations and leadership elections for the coming year. A public forum will begin at 8:30 p.m. (MT).

FOR FURTHER INFORMATION CONTACT: Steve Kozel, Bearlodge District Ranger and Designated Federal Officer, at (307) 283–1361.

Dated: August 12, 2003.

Steve Kozel,

Bearlodge District Ranger.

[FR Doc. 03–20990 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Arizona Counties Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Arizona Counties Resource Advisory Committee will meet in Show Low, Arizona. The purpose of the meeting is to evaluate project proposals for possible funding in accordance with Pub. L. 106–393 (the Secure Rural Schools and Community Self-Determination Act).

DATES: The meeting will be held September 12, 2003 starting at 1 p.m.

ADDRESSES: The meeting will be held in the conference room at the Sleep Inn, 1751 West Deuce of Clubs, Show Low, Arizona 85901. Send written comments to Robert Dyson, Eastern Arizona Counties Resource Advisory Committee, c/o Forest Service, USDA, P.O. Box 640, Springerville, Arizona 85938 or electronically to *rdyson@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Robert Dyson, Public Affairs Officer, Apache-Sitgreaves National Forests, (928) 333–4301.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Pub. L. 106–393 related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 1, 2003, will have the opportunity to address the Committee at those sessions.

Dated: August 8, 2003.

Elaine J. Zieroth,

Forest Supervisor, Apache-Sitgreaves National Forests.

[FR Doc. 03–20998 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Invitation for Nominations to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service (NASS), USDA.

ACTION: Solicitation of nominations for Advisory Committee on Agriculture Statistics membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces an invitation from the Office of the Secretary of Agriculture for nominations to the Advisory Committee on Agriculture Statistics.

On January 13, 2003, the Secretary of Agriculture renewed the Advisory Committee charter for another 2 years. The purpose of the Committee is to advise the Secretary of Agriculture on the scope, timing, content, *etc.*, of the periodic censuses and surveys of agriculture, other related surveys, and the types of information to obtain from respondents concerning agriculture. The Committee also prepares recommendations regarding the content of agriculture reports and presents the views and needs for data of major suppliers and users of agriculture statistics.

DATES: Nominations must be received by September 17, 2003 to be assured of consideration.

ADDRESSES: Nominations should be mailed to Carol House, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 4117 South Building, Washington, DC 20250–2000. In addition, nominations may be mailed electronically to *hq_aa@nass.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Carol House, Associate Administrator, National Agricultural Statistics Service, (202) 720–4333.

SUPPLEMENTARY INFORMATION: Nominations should include the following information: name, title, organization, address, telephone number, and e-mail address. In addition to mailed correspondence to the addresses listed above, nominations may also be faxed to (202) 720–9013, OR telephoned to Carol House, Associate Administrator, NASS, at (202) 720–4333. Each person nominated is required to complete an Advisory Committee Membership Background Information form. This form may be requested by telephone, fax, or e-mail using the information above. Forms will also be available from the NASS Home page *http://www.usda.gov/nass* by selecting ''Agency Information,'' ''Advisory Committee on Agriculture Statistics.'' Completed forms may be faxed to the number above, mailed, or completed and e-mailed directly from the Internet site.

The Committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keep NASS informed of emerging issues in the agriculture community that can affect agriculture statistics activities.

The Committee, appointed by the Secretary of Agriculture, consists of 25 members representing a broad range of disciplines and interests, including, but not limited to, representatives of national farm organizations, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

Members serve staggered 2-year terms, with terms for half of the Committee members expiring in any given year. Nominations are being sought for 13 open Committee seats. Members can serve up to 3 terms for a total of 6 consecutive years. The Chairperson of the Committee shall be elected by members to serve a 1-year term.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics program of NASS, and such other matters as it may deem advisable, or which the Secretary of Agriculture, Under Secretary for Research, Education, and Economics, or the Administrator of NASS may request. The Committee will meet at least annually. All meetings are open to the public. Committee members are reimbursed for official travel expenses only.

Send questions, comments, and requests for additional information to the e-mail address, fax number, or address listed above.

Signed at Washington, DC, August 5, 2003.

R. Ronald Bosecker,

Administrator, National Agricultural Statistics Service.

[FR Doc. 03–21038 Filed 8–15–03; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 39–2003]

Foreign-Trade Zone 82, Mobile, AL; Request for Manufacturing Authority (Agricultural Chemicals)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile (Alabama), grantee of FTZ 82, requesting authority on behalf of E.I. Dupont de Nemours and Company (Dupont) for the manufacture of crop protection products and related chemicals under FTZ procedures within proposed Site 2 of FTZ 82 (FTZ Doc. 19–2003; 68 FR 19498, 4/21/2003). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 7, 2003.

Dupont operates a 114-acre facility (200 full-time employees and 100 contract workers) within the proposed Site 2 of FTZ 82 for the manufacture of agricultural chemicals, including the insecticides marketed under the Avaunt, Steward, Asana, and Fortress trade names. The finished products would enter the United States under HTSUS headings 2907, 2914, 2916, 2917, 2918, 2920, 2921, 2924, 2926, 2928, 2930, 2932, 2933, 2934, 2935, 3808, or 3815, with duty rates ranging from duty-free to 7.8% *ad valorem.* Imported inputs are projected to comprise less than 20 percent of the value of finished products produced under FTZ procedures.

The company indicates that the following foreign inputs may be admitted under FTZ procedures: fulminates, cyanates and thiocyanates; cyclic hydorcarbons; halogenated derivatives of hydrocarbons; derivatives of hydrocarbons; acyclic alcohols and derivatives; cyclic alcohols and derivatives; phenols and phenol-alcohols, and their derivatives; ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, alcohol peroxides, ether peroxides, ketone peroxides, and their derivatives; aldehyde-function compounds and derivatives; ketone-function compounds and quinone-function compounds; saturated acyclic monocarboxylic acids and derivatives; unsaturated acyclic monocarboxylic acids and derivatives; polycarboxylic acids and derivatives; carboxylic acids and derivatives; phosphoric esters, salts, and derivatives; esters of other inorganic salts, and their salts and derivatives; amine function compounds; oxygen-function amino-compounds; quartenary ammonium salts and hydroxides, lecithins, and other phosphoaminolipids; carboxyamide-function compounds and amide-function compounds of carbonic acid; nitrile-function compounds; diazo-, azo-, or azoxy-compounds; organic derivatives of hydrazine or of hydroxylamine; organo-sulfur compounds; other organo-inorganic compounds; heterocyclic compounds with nitrogen hetero-atom(s) only; sulfonamides; oxidation inhibitors; insecticides, rodenticides, fungicides, herbicides, etc.; reaction initiators and accelerators; and chemical products and preparations not elsewhere specified (HTS heading 3824). Duty rates on these imported components currently range from duty-free to 7.8 percent.

This application requests authority to allow Dupont to conduct the activity under FTZ procedures, which would exempt the company from Customs duty payments on the foreign components used in export activity. On its domestic sales, the company would be able to choose the duty rate that applies to finished products for the foreign components noted above. The company would also be exempt from duty payments on foreign merchandise that becomes scrap/waste. The application indicates that the savings would help improve the facility's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is October 17, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 3, 2003.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the Office of the City Clerk, City of Mobile, 9th Floor, South Tower, Government Plaza, 205 Government Street, Mobile, AL 36602.

Dated: August 7, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–21061 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351–605]

Frozen Concentrated Orange Juice from Brazil; Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Rescission of the Antidumping Duty Administrative Review.

EFFECTIVE DATE: August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement 2, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–0656 or (202) 482–3874, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2003, the Department of Commerce (Department) published in the **Federal Register** (68 FR 23281) a notice of opportunity to request an administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil for the period May 1, 2002, through April 30, 2003.

In accordance with 19 CFR 351.213(b)(1), on May 30, 2003, the petitioners (*i.e.*, Florida Citrus Mutual, Citrus Belle, Citrus World, Inc., Orange-Co of Florida, Inc., Peace River Citrus Products, Inc., and Southern Gardens Citrus Processors Corp.) requested a review of this order with respect to the following producers/exporters: Branco Peres Citrus S.A. (Branco Peres), Citrovita Agro Industrial Ltda. and its affiliated parties Cambuhy MC Industrial Ltda. and Cambuhy Citrus Comercial e Exportadora (collectively ''Citrovita''), CTM Citrus S.A. (CTM), and Sucorrico S.A. (Sucorrico).

The Department initiated an administrative review for Branco Peres, Citrovita, CTM, and Sucorrico and

issued questionnaires to them in July 2003. *See* 68 FR 39055 (July 1, 2003).

Branco Peres, Citrovita, CTM, and Sucorrico notified the Department that neither they nor any of their affiliates had any sales or exports of subject merchandise during the period of review (POR). The Department confirmed these companies' statements with the Bureau of Customs and Border Protection (BCBP). Accordingly, we notified the petitioners that we intended to rescind this administrative review with respect to all four respondents and they did not object. *See* July 21, 2003, memorandum from Alice Gibbons to the file entitled, ''Intent to Rescind the Antidumping Duty Administrative Review on Frozen Concentrated Orange Juice from Brazil.''

Rescission of Review

Because Branco Peres, CTM, Citrovita, and Sucorrico had no shipments of subject merchandise during the POR, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding this review of the antidumping duty order on frozen concentrated orange juice from Brazil for the period of May 1, 2002, through April 30, 2003. This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 12, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–21059 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–836]

Notice of Rescission of Antidumping Duty New Shipper Review: Glycine from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On May 24, 2002 the Department published the notice of initiation of the new shipper review of the antidumping duty order on glycine from the People's Republic of China (PRC) covering the period March 1, 2001, through February 28, 2002. The new shipper review covered exports by Tianjin Tiancheng Pharmaceutical Co. Ltd. (TTPC). *See Glycine from the People's Republic of China: Initiation of Antidumping New Shipper Review*, 67 FR 36572 (May 24, 2002) (*New Shipper Initiation*). For the reasons discussed below, we are rescinding the review of TTPC.

EFFECTIVE DATE: August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or Matthew Renkey at (202) 482–1386 and (202) 482–2312, respectively; AD/CVD Enforcement, Office 7, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 29, 1995, the Department published in the **Federal Register** an antidumping duty order on glycine from the PRC. *See Antidumping Duty Order: Glycine from the People's Republic of China*, 60 FR 16116, (March 29, 1995). On March 29, 2002, the Department received a request for a new shipper review from TTPC; however, this request was not filed in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act) and section 351.214(c) of the Department's regulations. On April 29, 2002, the Department sent a letter to TTPC asking them to properly refile their request with the Department by May 1, 2002. The Department allowed TTPC to correct its business proprietary information (BPI) as it had done with a concurrent request for a new shipper review in another case. *See Memorandum to the File through Maureen Flannery from Matthew Renkey, Initiation of New Shipper Review of Glycine from the People's Republic of China* (May 17, 2002). On May 1, 2002, the Department received a properly filed request for a new shipper review from TTPC for the antidumping duty order on glycine from the People's Republic of China. On May 24, 2002, the Department published its initiation of this new shipper review for the period March 1, 2001, through February 28, 2002. *See New Shipper Initiation.*

On May 24, 2002, the Department issued a questionnaire to TTPC. On July 11, 2002, TTPC responded to section A of the questionnaire, and on July 12, 2002, TTPC responded to sections C and D. On November 13, 2002, the Department issued a supplemental questionnaire to TTPC, and we received TTPC's supplemental response on December 9, 2002. Department officials conducted verification of TTPC and its producer/supplier, Baoding Mancheng Eastern Chemical Plant (Eastern Chemical), from January 20 through January 23, 2003. The results of the Department's verification can be found in *New Shipper Review of Glycine from the People's Republic of China: Sales and Factors Verification Report for Tianjin Tiancheng Pharmaceutical Co. Ltd.* (*TTPC Verification Report*), and *New Shipper Review of Glycine from the People's Republic of China: Factors Verification Report for Baoding Mancheng Eastern Chemical Plant* (*Eastern Chemical Verification Report*), both dated March 6, 2003. Public versions of these reports are on file in the Central Records Unit located in room B-099 of the Main Commerce Building. On February 26, 2003, we issued a questionnaire to TTPC's U.S. importer. We published the preliminary results of this new shipper review on March 20, 2003. *See Notice of Preliminary Results of Antidumping Duty New Shipper Reviews: Glycine from the People's Republic of China*, 68 FR 13669 (March 20, 2003) (*Preliminary Results*). In the *Preliminary Results*, we made no determination regarding the *bona fides* of TTPC's sales. In the *Preliminary Results*, we noted that any response to the questionnaire we sent to the U.S. importer would be evaluated for the purposes of the final results of this review.

On March 12, 2003, we received TTPC's importer's response to our questionnaire. On April 18, 2003, and July 3, 2003 the Department issued additional questionnaires to TTPC's importer. Responses to these questionnaires were received on April 28, 2003, and July 21, 2003, respectively. Both the petitioners (Chattem Chemicals, Inc. and Dow Chemical Company) and respondent filed case and rebuttal briefs.[1] On June 13, 2003, the Department published a notice extending the time limit for the final results of this new shipper review to no later than August 8, 2003. *See Notice of Extension of Time Limit of Final Results of New Shipper Review: Glycine from the People's Republic of China*, 68 FR 35383 (June 13, 2003) (*Final Extension Notice*). In the *Final Extension Notice*, one of the reasons given for extending the time limit was to allow the Department more time to evaluate the *bona fides* of TTPC's U.S. sales.

In addition to commenting on the *bona fides* of TTPC's U.S. sales, the

[1] On April 30, 2003, the Department received a properly filed case brief from TTPC. Petitioners also filed their case brief on April 30, 2003. On May 6, 2003 both parties filed their rebuttal briefs. Due to the fact that new factual information was submitted in the original versions of petitioners' case and rebuttal briefs and respondent's rebuttal brief, the Department instructed parties to refile these briefs without the new factual information on May 16, 2003. The Department received properly filed versions of petitioners' case and rebuttal briefs and respondent's rebuttal brief on May 16, 2003.

parties addressed, in their case and rebuttal briefs,two surrogate valuation issues: (1) what to use as the surrogate for the financial ratios, and (2) what to use as the surrogate for the drums into which TTPC packed its shipment of glycine. With regard to the financial ratios issue, respondent argued that we should use ratios based upon information from Indian aspirin and sweetener producers it submitted during the course of the review. Petitioners argued that we should not change the ratios we used in the *Preliminary Results*, or that if we were to decide to use a different surrogate, that we should use information from Indian pharmaceutical companies they had submitted during the course of the review. With regard to the packing material issue, respondent argued that we used the incorrect Indian HTS number to value the drums into which the glycine was packed. Petitioners argued that we used the correct Indian HTS number to value the drums. Since, as discussed below, we are rescinding this review, we need not address the parties' comments on these issues.

Rescission of Review

Concurrent with this notice, we are issuing our memorandum detailing our analysis of the *bona fides* of TTPC's U.S. sales and our decision to rescind based on the totality of the circumstances. *See Memorandum from Joseph A. Spetrini to James J. Jochum; Glycine from The People's Republic of China: the Bona Fide Issue in the New Shipper Review of Tianjin Tiancheng Pharmaceutical Co., Ltd.* (*Rescission Memo*). The Department has determined that the new shipper sales made by TTPC were not *bona fide* because (1) the prices for TTPC's sales of glycine were not commercially reasonable, (2) the sales were made outside TTPC's normal U.S. sales channels, (3) the extent to which late payment was made by TTPC's importer, and (4) there were inconsistencies in the import documentation for the sales. *Id.* at 7.

Although sales involving small quantities are not inherently commercially unreasonable, the quantity, taken together with other aspects of a transaction, may support a conclusion that a transaction is not *bona fide*. For example, in *Certain Cut-to-Length Carbon Steel Plate From Romania: Notice of Rescission of Antidumping Duty Administrative Review*, 63 FR 47232, 47234 (September 4, 1998) (*Romanian Plate*), the Department excluded the respondent's U.S. sale from its analysis based on the cumulative weight of numerous factors indicating that the sale involved atypical selling procedures, including the extremely small quantity, the extraordinarily high transportation costs incurred by the importer combined with other expenses borne by the importer, and the fact that the merchandise was subsequently resold at a significant loss. *See generally Romanian Plate*, 63 FR at 47233; *see also Windmill Int'l Pte., Ltd. v. United States*, 193 F. Supp.2d 1303, 1313 (February 21, 2002). The Department takes its responsibility to review the *bona fides* of new shipper sales very seriously. Therefore, we examine a number of factors, all of which may speak to the commercial realities surrounding the sale of subject merchandise.

As discussed in detail in the Department's *Rescission Memo*, TTPC's new shipper sales to the United States fell outside of its normal business practice. *See Rescission Memo* at 4. In addition, the value of the sales as well as the practices surrounding the sales were atypical of normal, commercial transactions in the industry. *Id.* at pages 3–6. Taken as a whole, these facts lead the Department to conclude that the sales were not commercially reasonable or *bona fide*. As a result, this new shipper review should be rescinded.

Notification

The Department will notify the U.S. Bureau of Customs and Border Protection that bonding is no longer permitted to fulfill security requirements for shipments by TTPC of glycine from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**, and that a cash deposit of 155.89 percent *ad valorem* should be collected for any entries exported by TTPC.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: August 8, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–21057 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Certain Preserved Mushrooms From India: Notice of Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of partial rescission of antidumping duty administrative review.

EFFECTIVE DATE: August 18, 2003.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2003, the Department published in the **Federal Register** (68 FR 5272) a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order on certain preserved mushrooms from India for the period February 1, 2002, through January 31, 2003. On February 21, 2003, Agro Dutch Foods, Ltd. (Agro Dutch), requested an administrative review of its sales. On February 27, 2003, Weikfield Agro Products, Ltd. (Weikfield), requested an administrative review of its sales. On February 28, 2003, Saptarishi Agro Industries, Ltd. (Saptarishi Agro), requested an administrative review of its sales. Also, on February 28, 2003, the petitioner [1] requested an administrative review of the antidumping duty order for the following companies: Agro Dutch, Alpine Biotech, Ltd. (Alpine Biotech), Dinesh Agro Products, Ltd. (Dinesh Agro), Flex Foods, Ltd. (Flex Foods),

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushroom Canning Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp.

Himalya International, Ltd. (Himalya), Mandeep Mushrooms, Ltd. (Mandeep Mushrooms), Premier Mushroom Farms (Premier), Saptarishi Agro, and Weikfield. On March 25, 2003, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to these companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part,* 68 FR 14399.

On May 5, 2003, Flex Foods reported that it had no sales of the subject merchandise during the period of review. We confirmed Flex Foods' claim by reviewing data from the U.S. Bureau of Customs and Border Protection. See Memorandum to the File dated June 6, 2003, on file in Room B–099 of the Commerce Department. We received no comments on this memorandum from any party.

On April 7, 2003, the petitioner timely withdrew its request for review with respect to Alpine Biotech and Mandeep Mushrooms. On June 9, 2003, the petitioner requested that the Department extend the deadline established under 19 CFR 351.213(d)(1) until July 14, 2003, to withdraw its request for review of Himalya. On June 18, 2003, we granted this request. On July 14, 2003, the petitioner withdrew its request for review of Himalya.

Partial Recission of Review

Section 351.213(d)(1) of the Department's regulations stipulates that the Secretary will permit a party that requests a review to withdraw the request within 90 days of the date of publication of notice of initiation of the requested review. In this case, the petitioner withdrew its request for review of Alpine Biotech and Mandeep Mushrooms within the 90-day period and withdrew its request for review of Himalya pursuant to an authorized extension of the 90-day period. Therefore, because we have received timely requests for rescission, we are rescinding, in part, this review of the antidumping duty order on certain preserved mushrooms from India as to Alpine Biotech, Himalya, and Mandeep Mushrooms. We are also rescinding this review as to Flex Foods, in accordance with 19 CFR 351.213(d)(3), because it had no sales of the subject merchandise during the period of review. This review will continue with respect to Agro Dutch, Dinesh Agro, Premier, Saptarishi Agro, and Weikfield.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 12, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–21062 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–837, A–533–828, A–580–852]

Notice of Postponement of Final Antidumping Duty Determinations and Extension of Provisional Measures: Prestressed Concrete Steel Wire Strand From Brazil, India, and the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Tisha Loeper-Viti at (202) 482–7425, 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.

Postponement of Final Determinations:

The Department of Commerce (the Department) is postponing the final determinations in the antidumping duty investigations of prestressed concrete steel wire strand from Brazil, India, and the Republic of Korea.

On July 17, 2003, the Department published its affirmative preliminary determinations in these antidumping duty investigations. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Wire Strand from Brazil,* 68 FR 42386 (July 17, 2003), *Notice of Preliminary Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Wire Strand from India,* 68 FR 42389 (July 17, 2003), and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Wire Strand from Republic of Korea,* 68 FR 42393 (July 17, 2003). These notices stated that the Department would issue its final determinations no later than 75 days after the date on which the Department issued its preliminary determinations.

Section 735(a)(2)(A) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.210(b)(2)(ii) provide that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Additionally, the Department's regulations, at 19 CFR 351.210(e)(2)(ii), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On July 31, 2003, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), Tata Iron and Steel Co. Ltd., the sole respondent in the investigation involving India, requested that the Department postpone its final determination in that case. On August 4, 2003, Korean Iron and Steel Wire, Ltd. (Kiswire Ltd.) and Dong-Il Steel Manufacturing Co., Ltd., two Korean producers/exporters selected as mandatory respondents, requested that the Department postpone its final determination involving the Republic of Korea. On August 6, 2003, Belgo Bekaert Arames S.A., the sole Brazilian producer and mandatory respondent, requested that the Department postpone its final determination in the case involving Brazil. These parties requested that the Department fully extend the provisional measures by 60 days in accordance with sections 773(d) of the Act and 19 CFR 351.210(e)(2). Accordingly, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) These preliminary determinations are affirmative; (2) the requesting exporters or producers account for a significant proportion of exports of the subject merchandise in their respective investigations; and (3) no compelling reasons for denial exist, we are postponing the final determinations until no later than 135 days after the publication of the preliminary determinations in the **Federal Register** (*i.e.*, until no later than December 1, 2003). Suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: August 12, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–21060 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030602141–3198–02; I.D. 080803D]

Omnibus Notice Announcing the Availability of Grant Funds for Fiscal Year 2004; Amendment

AGENCY: National Marine Fisheries Service (NMFS), NationalOceanic and Atmospheric Administration (NOAA),Commerce.

ACTION: Notice.

SUMMARY: The National Marine Fisheries Service (NMFS)publishes this notice to reopen the application period fpr the NMFS Cooperative Research program (CRP). The original solicitation for applications for this program was published in an action entitled ''Omnibus Notice Announcing the Availability of Grant Funds for Fiscal Year 2004''.

DATES: We must receive your application by close of business (5 p.m. EDT) on September 15, 2003. Applications received after that time will not be considered for funding. Applications received from August 15, 2003 through that date will be treated as having been received in a timely manner.

ADDRESSES: You can obtain an application package from, and send your completed applications to: Ellie Francisco Roche, Chief, State/Federal Liaison Office, Southeast Regional Office, NMFS, 9721 Executive Center Drive, N., St. Petersburg, FL 33702. You can also obtain the application package from the SERO homepage at: *http://caldera.sero.nmfs.gov/grants/programs/*. You must submit one signed original and two copies of the completed application (including supporting information). We will accept neither facsimile applications, nor electronically forwarded applications.

FOR FURTHER INFORMATION CONTACT: Ellie Francisco Roche, Chief, State/Federal Liaison Office, (727)570–5324.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) Cooperative Research Program (CRP) published a notice soliciting applications for financial assistance in the **Federal Register** of June 30, 2003 (68 FR 38678), entitled ''Omnibus Notice Announcing the Availability of Grant Funds for Fiscal Year 2004''. The purpose of this notice is to inform all applicants that the Application Deadline for the CRP has been reopened to close of business (5 p.m. EDT) on September 15, 2003. Applications received after that time will not be considered for funding. Applications received from August 15, 2003 through that date will be treated as having been received in a timely manner.

You should consult the June 30, 2003, notice for all of the other requirements for submitting an application.

Dated: August 12, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 03–21067 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081203D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Marine Protected Areas Oversight Committee in September, 2003, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Wednesday, September 10, 2003, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Radisson Plymouth Hotel, 180 Water Street, Plymouth, MA 02360; telephone: (508) 747–4900.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Marine Protected Areas (MPA) Committee will review and develop a position of the Council regarding MPAs; review **Federal Register** notice on MPAs and an Inventory of Existing Marine Managed Areas and develop a response for the Council to submit during the public comment period. The committee will also develop a work plan for MPA issues for consideration by the Council in its 2004 priorities.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: August 12, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–21046 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080603D]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for research permits 1443 & 1445 and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for a permit for scientific research from California Department of Fish and Game (CDFG) in Sacramento, CA (1443) and U.S. Bureau of Reclamation (BOR) in Byron, CA (1445). The permits would affect federally endangered Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead. This document serves to notify the public of the availability of the permit applications for review and comment.

DATES: Written comments on the permit applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on September 17, 2003.

ADDRESSES: Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents for permits 1443 and 1445 are available for review by appointment at the following address: Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8–300, Sacramento, CA 95814 (ph: 916–930–3614, fax: 916–930–3629).

FOR FURTHER INFORMATION CONTACT: Rosalie del Rosario at phone number 916–930–3614, or e-mail: *Rosalie.delRosario@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to federally endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), and threatened Central Valley steelhead (*O. mykiss*).

Applications Received

CDFG requests a permit (1443) for incidental take of juvenile Sacramento River winter-run Chinook salmon associated with a 2–year study on the occurrence and distribution of resident and anadromous rainbow trout in the Central Valley. DFG requests authorization for an estimated annual take of 20 juvenile winter-run Chinook salmon, with one lethal take resulting from capture by electrofishing, hook and line, netting and traps.

BOR requests a 3–year permit (1445) for take of Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead associated with four studies to improve conditions for fish at the Tracy Fish Collection Facility (facility). BOR requests authorization for an estimated annual take of 182 juvenile winter-run Chinook salmon (number includes 52–percent incidental mortality), 5,359 juvenile spring-run Chinook salmon (22–percent incidental mortality), and 171 juvenile steelhead (no incidental mortality) resulting from handling of fish that pass through the facility.

Dated: August 12, 2003.

Susan Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–21049 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081203A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits 1433 and 1440 and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for scientific research from US Bureau of Reclamation (BOR) in Shasta Lake, CA (1433) and Interagency Ecological Program (IEP) in Stockton, CA (1440). These permits would affect federally endangered Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead. The latter permit (1440) would also affect threatened Central California Coast steelhead. This document serves to notify the public of the availability of the permit applications for review and comment.

DATES: Written comments on the permit applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on September 17, 2003.

ADDRESSES: Written comments on this request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents for permits 1433 and 1440 are available for review by appointment at the following address: Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8–300, Sacramento, CA 95814 (ph: 916–930–3614, fax: 916–930–3629).

FOR FURTHER INFORMATION CONTACT: Rosalie del Rosario at phone number 916–930–3614, or e-mail: *Rosalie.delRosario@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to federally endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), and threatened Central California Coast steelhead (*O. mykiss*).

Applications Received

BOR requests a 3–year permit (1433) for take of juvenile endangered Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead to characterize the biological community in the upper Sacramento River during gate operations of the Red Bluff Diversion Dam. BOR requests authorization for an estimated total take of 1,950 juvenile winter-run Chinook salmon (that includes 1 percent incidental mortality), 50 juvenile spring-run Chinook salmon (that includes 4 percent incidental mortality), and 65 juvenile steelhead (3 percent incidental mortality) resulting from capturing by beach seine, measuring, and releasing of fish.

IEP requests a 5–year permit (1440) for incidental take of adult and juvenile Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and Central California Coast steelhead associated with 11 studies that aim to evaluate the effects of water export facilities (State Water Project and Central Valley Water Project) on aquatic organisms. IEP requests authorization for an estimated annual take of 18 adult and 167 juvenile winter-run Chinook salmon (that includes 6 percent and 13 percent incidental mortality, respectively), 17 adult and 1,040 spring-run Chinook salmon (that includes 6 percent and 7 percent incidental mortality), 22 adult and 143 juvenile steelhead (that includes 5 percent and 12 percent incidental mortality), and 2 juvenile Central California Coast steelhead (no mortality) resulting from the proposed studies.

Dated: August 12, 2003.

Susan Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–21066 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080603C]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application to modify scientific research permit (1288) and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for a permit modification for scientific research from Dynamac/USEPA in Corvallis, OR (1288). The modified permit would affect federally endangered Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead. This document serves to notify the public of the availability of the permit modification application for review and comment.

DATES: Written comments on the permit applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on September 17, 2003.

ADDRESSES: Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents for permit 1288 are available for review by appointment at the following address: Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8–300, Sacramento, CA 95814 (ph: 916–930–3614, fax: 916–930–3629).

FOR FURTHER INFORMATION CONTACT: Rosalie del Rosario at phone number 916–930–3614, or e-mail: *Rosalie.delRosario@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

This notice is relevant to federally endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), and threatened Central Valley steelhead (*O. mykiss*).

Applications Received

Dynamac/USEPA requests a modification to permit 1288 for take of juvenile endangered Sacramento River winter-run Chinook salmon, threatened Central Valley spring-run Chinook salmon, and threatened Central Valley steelhead associated with surveys of aquatic biological communities to assess the biological integrity of Central Valley streams rivers. Presently, permit 1288 authorizes intentional takes of threatened Southern Oregon/Northern California Coast coho salmon, threatened Central California Coast coho salmon, threatened Northern California steelhead, threatened Central California Coast steelhead, and threatened California Coastal Chinook salmon. Dynamac/USEPA requests additional authorization for an estimated total take of 5 juvenile winter-run Chinook salmon (that includes 7 percent incidental mortality), 10 juvenile spring-run Chinook salmon (7 percent incidental mortality), and 10 juvenile steelhead (7 percent incidental mortality) resulting from capture by electrofishing, measuring, and releasing of fish.

Dated: August 12, 2003.

Susan Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–21068 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Clarification of Procedures for Considering Requests from the Public for Textile and Apparel Safeguard Actions on Imports from the People's Republic of China

August 13, 2003.

AGENCY: The Committee for the Implementation of Textile Agreements (The Committee).

ACTION: Clarification of Safeguard Procedures

SUMMARY: This notice clarifies the notice published in the **Federal Register** on May 21, 2003 (see 68 FR 27787) by the Committee for the Implementation of Textile Agreements (the Committee) of procedures the Committee will follow in considering requests from the public for textile and apparel safeguard actions as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (the Accession Agreement).

EFFECTIVE DATE: August 18, 2003.

FOR FURTHER INFORMATION CONTACT: William Dulka, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

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.

Background

The Accession Agreement textile and apparel safeguard allows the United States and other World Trade Organization Member countries that believe imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding such market disruption. On May 21, 2003, the Committee published procedures the Committee will follow in considering requests from the public for textile and apparel safeguard actions as provided for in the Accession Agreement in the **Federal Register** (see 68 FR 27787). Upon further review, the Committee has determined that it is appropriate to clarify those procedures. Beyond the clarifications noted below, those procedures remain unchanged.

The Committee has determined that actions taken under Accession Agreement textile and apparel safeguard on imports from China fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1), and this notice does not waive that determination. This notice is not subject to the requirement to provide prior notice and opportunity for public comment, pursuant to 5 U.S.C. 553(a)(1) and 553(b)(A).

Clarifications

As was set forth in the May 21 notice, a request that has been accepted for consideration, with the exception of information marked ''business confidential'', will be posted by the Department of Commerce's Office of Textiles and Apparel (OTEXA) on the Internet (http://www.otexa.ita.doc.gov), along with the Federal Register notice in which public comments on the request are solicited. The May 21 notice also provided that a public record on each request will be maintained, including a non-confidential version of the request that is being considered, a non-confidential version of any public comment received with respect to a request, and, in the event consultations with China are requested, the statement of the reasons and justifications for such request for consultations subsequent to the delivery of the statement to China.

OTEXA will maintain an official record for each request on behalf of the Committee. The official record will include all factual information, written argument, or other material developed by, presented to, or obtained by OTEXA regarding the request, as well as other material provided to the Department of Commerce by other government agencies for inclusion in the official record. The official record will include Committee memoranda pertaining to the request, memoranda of Committee meetings, meetings between OTEXA staff and the public, determinations, and notices published in the **Federal Register**. The official record will contain material which is public, business confidential, privileged, and classified, but will not include pre-decisional inter-agency or intra-agency communications. If the Committee decides it is appropriate to consider materials submitted in an untimely manner, such materials will be maintained in the official record. Otherwise, such material will be returned to the submitter and will not be maintained as part of the official record.

OTEXA will make the official record public except for business confidential information, privileged information, classified information, and other information the disclosure of which is prohibited by U.S. law. Information designated by the submitter as business confidential will normally be considered to be business confidential unless it is publicly available. The May 21 notice requires that a request or comment that contains business confidential information be accompanied by a non-confidential version in which business confidential information is summarized or, if necessary, deleted. The non-confidential version will be included in the public record. The public record will be available to the public for inspection and copying in a public reading room located in the Department of Commerce.

As was set forth in the May 21 notice, in response to a request or on its own initiative, the Committee will make a determination within 60 calendar days of the close of the comment period as to whether the Committee will request consultations with China. The Committee will make this determination in a manner consistent with longstanding Committee practice in considering textile safeguard actions and the information described in the May 21, 2003 notice.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–21034 Filed 8–15–03; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China

August 13, 2003.

AGENCY: The Committee for the Implementation of Textile Agreements (the Committee)

ACTION: Solicitation of public comments concerning a request for safeguard action on imports from China of knit fabric (Category 222).

SUMMARY: On July 24, 2003, the Committee received a request from the American Yarn Spinners Association, American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association alleging that imports from China of knit fabric (Category 222) are, due to market disruption, threatening to impede the orderly development of trade in this product. They request that a textile and apparel safeguard action, as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (the Accession Agreement), be taken on imports of such fabric. The Committee hereby solicits

public comments on this request, in particular with regard to whether imports from China of knit fabric are, due to market disruption, threatening to impede the orderly development of trade in this product. Comments must be submitted by September 17, 2003 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: William Dulka, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

Background

The Accession Agreement textile and apparel safeguard allows the United States and other World Trade Organization Members that believe imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding such market disruption. Upon receipt of the request, China has agreed to hold its shipments to a level no greater than 7.5 percent (6 percent for wool product categories) above the amount entered during the first 12 months of the most recent 14 months preceding the request for consultations. The Member requesting consultations may implement such a limit. Consultations with China will be held within 30 days of receipt of the request for consultations, and every effort will be made to reach agreement on a mutually satisfactory solution within 90 days of receipt of the request for consultations. If agreement on a different limit is reached, the Committee will issue a **Federal Register** Notice containing a directive to the Bureau of Customs and Border Protection that implements the negotiated limit. The limit is effective beginning on the date of the request for consultations and ending on December 31 of the year in which consultations were requested, or where three or fewer months remained in the year at the time of the request for consultations, for the period ending 12 months after the request for consultations. In order to facilitate the implementation of the Accession Agreement textile and apparel safeguard, the Committee has published procedures (the Procedures) it will follow in considering requests for Accession Agreement textile and apparel safeguard actions (68 FR 27787, published May 21, 2003).

On July 24, 2003, the Committee received a request from the American Yarn Spinners Association, American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association alleging that imports from China of knit fabric (Category 222) are, due to market disruption, threatening to impede the orderly development of trade in this product, and requesting that an Accession Agreement textile and apparel safeguard action be taken on imports of knit fabric. The Committee has determined that this request provides the information necessary for the Committee to consider the request in light of the considerations set forth in the Procedures. The text of the request is reproduced in full below.

The Committee is soliciting public comments on this request, in particular with regard to whether imports from China of such fabric are, due to market disruption, threatening to impede the orderly development of trade in this product. Comments may be submitted by any interested person. Comments must be received no later than September 17, 2003. Interested persons are invited to submit ten copies of such comments to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

If a comment alleges that there is no market disruption or that the subject imports are not the cause of market disruption, the Committee will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive products. Particular consideration will be given to comments representing the views of actual producers in the United States of a like or directly competitive product.

The Committee will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided in which business confidential information is summarized or, if necessary, deleted. Comments received, with the exception of information marked ''business confidential'', will be available for inspection between 9:00 a.m and 4:30 p.m in Room 2233, United States Department of Commerce, 14th and Constitution Avenue NW., Washington DC 20230.

The Committee will make a determination within 60 calendar days of the close of the comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**. If the Committee makes an affirmative determination that imports of Chinese origin textiles and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products, the United States will request consultations with China with a view to easing or avoiding such market disruption.

BILLING CODE 3510–DR–S

RECEIVED

AMERICAN TEXTILE MANUFACTURERS INSTITUTE

AMTAC
American Manufacturing Trade Action Coalition

JUL 24 2003

NATIONAL TEXTILE ASSOCIATION

American Yarn Spinners Association

July 24, 2003

Mr. James Leonard, Chairman
Committee for the Implementation of Textile Agreements
U.S. Department of Commerce – Room H310
14th and Constitution, NW
Washington DC 20230

Dear Mr. Leonard:

The American Yarn Spinners Association, American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association petition that the Committee for the Implementation of Textile Agreements (CITA) impose a textile safeguard action under the procedures set forth in Federal Register notice 03-12893 as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (WTO) with respect to imports of knit fabric, category 222.

The member companies of the trade associations making this request represent over two-thirds of domestic textile production and directly produce the product in question or make components that go into the product in question.

As the attached category specific information sheet will show, imports from China of these products have clearly "threatened to impede the orderly development of trade" and caused market disruption in the U.S. market.

As a result, the U.S. textile industry, which depends heavily on production sharing arrangements with Central America, the Caribbean and Mexico, in addition to domestic purchasers, has seen its production of the product in question or the component drop

substantially because of the Chinese surge. In addition, Chinese prices fell 52% last year, putting severe downward pricing pressure on U.S. and foreign suppliers, eroding profitability and the ability of other suppliers to compete.

U.S. production of these products fell eight percent in 2002 and at least six knitting mills have closed in the United States since January 2002. These include:

Ohio Knitting Mills	Cleveland, OH
Flynt Fabrics	Graham, NC
Guilford Mills	Lumberton, NC
Quitman Knitting Mills	Quitman, MS
Anvil Knitwear	Kings Mountain, NC
Guilford MIlls	Greensboro, NC

If you have any questions or need additional information, please let us know.

Sincerely,

Roger Milliken
American Manufacturing Trade Action Coalition

Willis C. Moore, III
American Textile Manufacturers Institute

William Giblin
National Textile Association

James W. Chesnutt
American Yarn Spinners Association

Category 222, knit fabric

A. Imports from China and the world (1998-5/03): kilograms

	1998	1999	2000	2001	2002	YTD 5/02	YTD 5/03	May-03	YE 5/02	YE 5/03
World	66,769,642	94,265,901	99,018,247	105,703,289	140,620,336	57,085,934	55,336,405	12,678,931	113,926,879	138,870,807
China	638,779	112,515	42,505	31,761	7,011,453	2,467,433	3,762,786	966,676	2,487,375	8,306,806
China Share	1%	0%	0%	0%	5%	4%	7%	8%	2%	6%

B. U.S. production data: kilograms

	1997	1998	1999	2000	2001	2002
US Production	929,065,000	787,553,000	731,921,000	657,040,000	518,571, 000	479,960,00
Change		-15%	-7%	-10%	-21%	-8%
DMS-All imports	6%	7%	11%	12%	14%	23%
DMS-Chinese imports	0%	0%	0%	0%	0%	2%
DMS-U.S. Production	94%	93%	89%	87%	83%	76%

In 2002, prices for Chinese knit fabric fell from $.77/square meter to $.37/square meter, a decline of 52 percent. Prices have continued to decline into 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–21063 Filed 8–14–03; 11:25 am]

BILLING CODE 3510–DR–C

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China

August 13, 2003.

AGENCY: The Committee for the Implementation of Textile Agreements (the Committee)

ACTION: Solicitation of public comments concerning a request for safeguard action on imports from China of robes, dressing gowns, etc. (Category 350/650).

SUMMARY: On July 24, 2003, the Committee received a request from the American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association alleging that imports from China of robes, dressing gowns, etc. (Category 350/650) are, due to market disruption, threatening to impede the orderly development of trade in this product. They request that a textile and apparel safeguard action, as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (the Accession Agreement), be taken on imports of robes, dressing gowns, etc. The Committee hereby solicits public comments on this request, in particular with regard to whether imports from China of robes, dressing gowns, etc. are, due to market disruption, threatening to impede the orderly development of trade in this product. Comments must be submitted by September 17, 2003 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: William Dulka, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

Background

The Accession Agreement textile and apparel safeguard allows the United States and other World Trade Organization Members that believe imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding such market disruption. Upon receipt of the request, China has agreed to hold its shipments to a level no greater than 7.5 percent (6 percent for wool product categories) above the amount entered during the first 12 months of the most recent 14 months preceding the request for consultations. The Member requesting consultations may implement such a limit. Consultations with China will be held within 30 days of receipt of the request for consultations, and every effort will be made to reach agreement on a mutually satisfactory solution within 90 days of receipt of the request for consultations. If agreement on a different limit is reached, the Committee will issue a **Federal Register** Notice containing a directive to the Bureau of Customs and Border Protection that implements the negotiated limit. The limit is effective beginning on the date of the request for consultations and ending on December 31 of the year in which consultations were requested, or where three or fewer months remained in the year at the time of the request for consultations, for the period ending 12 months after the request for consultations. In order to facilitate the implementation of the Accession Agreement textile and apparel safeguard, the Committee has published procedures (the Procedures) it will follow in considering requests for Accession Agreement textile and apparel safeguard actions (68 FR 27787, published May 21, 2003).

On July 24, 2003, the Committee received a request from the American

Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association alleging that imports from China of robes, dressing gowns, etc. (Category 350/650) are, due to market disruption, threatening to impede the orderly development of trade in this product, and requesting that an Accession Agreement textile and apparel safeguard action be taken on imports of robes, dressing gowns, etc. The Committee has determined that this request provides the information necessary for the Committee to consider the request in light of the considerations set forth in the Procedures. The text of the request is reproduced in full below.

The Committee is soliciting public comments on this request, in particular with regard to whether imports from China of robes, dressing gowns, etc are, due to market disruption, threatening to impede the orderly development of trade in this product. Comments may be submitted by any interested person. Comments must be received no later than September 17, 2003. Interested persons are invited to submit ten copies of such comments to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, DC 20230.

If a comment alleges that there is no market disruption or that the subject imports are not the cause of market disruption, the Committee will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive products. Particular consideration will be given to comments representing the views of actual producers in the United States of a like or directly competitive product.

The Committee will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided in which business confidential information is summarized or, if necessary, deleted. Comments received, with the exception of information marked ''business confidential'', will be available for inspection between 9:00 a.m and 4:30 p.m in Room 2233, United States Department of Commerce, 14th and Constitution Avenue N.W., Washington D.C. 20230.

The Committee will make a determination within 60 calendar days of the close of the comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**. If the Committee makes an affirmative determination that imports of Chinese origin textiles and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products, the United States will request consultations with China with a view to easing or avoiding such market disruption.

BILLING CODE 3510–DR–S

RECEIVED
JUL 24 2003

AMERICAN TEXTILE MANUFACTURERS INSTITUTE

AMTAC
American Manufacturing Trade Action Coalition

NATIONAL TEXTILE ASSOCIATION

July 24, 2003

Mr. James Leonard, Chairman
Committee for the Implementation of Textile Agreements
U.S. Department of Commerce – Room H310
14th and Constitution, NW
Washington DC 20230

Dear Mr. Leonard:

The American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association petition that the Committee for the Implementation of Textile Agreements (CITA) impose a textile safeguard action under the procedures set forth in Federal Register notice 03-12893 as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (WTO) with respect to imports of products that have been integrated under category 350/650, dressing gowns.

The member companies of the trade associations making this request represent over two-thirds of domestic textile production and produce component that go into the product in question.

As the attached category specific information sheet will show, imports from China of these products have clearly "threatened to impede the orderly development of trade" and caused market disruption in the U.S. market.

As a result, the U.S. textile industry, which depends heavily on production sharing arrangements with Central America, the Caribbean and Mexico, in addition to domestic purchasers, has seen its production of components for the product in question drop substantially because of the Chinese surge. In addition, Chinese prices, which fell 43% in 2002, have put severe downward pricing pressure on U.S. and foreign suppliers, eroding profitability and the ability of other suppliers to compete.

U.S. production of these products fell 19 percent in 2002 while Chinese imports have surged and the Chinese share of the import market is now three times larger than its next largest competitor.

If you have any questions, or need more information, please let me know.

Sincerely,

Roger Milliken
American Manufacturing Trade Action Coalition

Willis C. Moore, III
American Textile Manufacturers Institute

William Giblin
National Textile Association

350/650: cotton and man-made fiber dressing gowns

A. Imports from China and the world (1998-5/03): dozens

	1998	1999	2000	2001	2002	YTD 5/02	YTD 5/03	May 03	YE 5/02	YE 5/03
World	4,556,431	4,823,239	5,937,490	6,645,827	8,538,081	2,442,504	3,587,282	674,912	6,942,734	9,682,859
DMS - China	298,561	289,913	259,868	339,171	2,171,896	434,850	1,246,066	240,491	685,023	2,983,112
DMS - China Share	7%	6%	4%	5%	25%	18%	35%	36%	10%	31%

B. U.S. production data: dozens

	1998	1999	2000	2001	2002
US Production	1,791,000	1,662,000	1,987,000	1,185,000	963,000
Change		-7%	20%	-40%	-19%
Domestic market share – All Imports	72%	74%	75%	85%	90%
DMS – Chinese imports	5%	5%	3%	4%	23%
DMS – U.S. production	28%	26%	25%	15%	10%

NOTE: Prices for imports of Chinese cotton dressing gowns fell by 44 percent in 2002, dropping from $2.03/square meter to $1.13/square meter. Prices for imports of man-made fiber dressing gowns fell by 43 percent, dropping from $2.88/square meter to $1.64/square meter. Prices for Chinese imports continued to drop sharply into 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–21064 Filed 8–14–03; 11:26 am]

BILLING CODE 3510–DR–C

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Solicitation of Public Comments on Request for Textile and Apparel Safeguard Action on Imports from China

August 13, 2003.

AGENCY: The Committee for the Implementation of Textile Agreements (the Committee)

ACTION: Solicitation of public comments concerning a request for safeguard action on imports from China of brassieres and other body supporting garments (Category 349/649).

SUMMARY: On July 24, 2003, the Committee received a request from the American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association alleging that imports from China of brassieres and other body supporting garments (Category 349/649) are, due to market disruption, threatening to impede the orderly development of trade in this product. They request that a textile and apparel safeguard action, as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (the Accession Agreement), be taken on imports of brassieres and other body supporting garments. The Committee hereby solicits public comments on this request, in particular with regard to whether imports from China of brassieres and other body supporting garments are, due to market disruption, threatening to impede the orderly development of trade in this product. Comments must be submitted by September 17, 2003 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: William Dulka, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agriculture Act of 1956, as amended; Executive Order 11651, as amended.

Background

The Accession Agreement textile and apparel safeguard allows the United States and other World Trade Organization Members that believe imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding such market disruption. Upon receipt of the request, China has agreed to hold its shipments to a level no greater than 7.5 percent (6 percent for wool product categories) above the amount entered during the first 12 months of the most recent 14 months preceding the request for consultations. The Member requesting consultations may implement such a limit. Consultations with China will be held within 30 days of receipt of the request for consultations, and every effort will be made to reach agreement on a mutually satisfactory solution within 90 days of receipt of the request for consultations. If agreement on a different limit is reached, the Committee will issue a **Federal Register** Notice containing a directive to the Bureau of Customs and Border Protection that implements the negotiated limit. The limit is effective

beginning on the date of the request for consultations and ending on December 31 of the year in which consultations were requested, or where three or fewer months remained in the year at the time of the request for consultations, for the period ending 12 months after the request for consultations. In order to facilitate the implementation of the Accession Agreement textile and apparel safeguard, the Committee has published procedures (the Procedures) it will follow in considering requests for Accession Agreement textile and apparel safeguard actions (68 FR 27787, published May 21, 2003).

On July 24, 2003, the Committee received a request from the American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association alleging that imports from China of brassieres and other body supporting garments (Category 349/649) are, due to market disruption, threatening to impede the orderly development of trade in this product, and requesting that an Accession Agreement textile and apparel safeguard action be taken on imports of brassieres and other body supporting garments. The Committee has determined that this request provides the information necessary for the Committee to consider the request in light of the considerations set forth in the Procedures. The text of the request is reproduced in full below.

The Committee is soliciting public comments on this request, in particular with regard to whether imports from China of brassieres and other body supporting garments are, due to market disruption, threatening to impede the orderly development of trade in this product. Comments may be submitted by any interested person. Comments must be received no later than September 17, 2003. Interested persons are invited to submit ten copies of such comments to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, DC 20230.

If a comment alleges that there is no market disruption or that the subject imports are not the cause of market disruption, the Committee will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive products. Particular consideration will be given to comments representing the views of actual producers in the United States of a like or directly competitive product.

The Committee will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided in which business confidential information is summarized or, if necessary, deleted. Comments received, with the exception of information marked ''business confidential'', will be available for inspection between 9:00 a.m and 4:30 p.m in Room 2233, United States Department of Commerce, 14th and Constitution Avenue N.W., Washington D.C. 20230.

The Committee will make a determination within 60 calendar days of the close of the comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**. If the Committee makes an affirmative determination that imports of Chinese origin textiles and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products, the United States will request consultations with China with a view to easing or avoiding such market disruption.

BILLING CODE 3510–DR–S

RECEIVED

JUL 24 2003

AMERICAN TEXTILE MANUFACTURERS INSTITUTE

AMTAC
American Manufacturing Trade Action Coalition

NATIONAL TEXTILE ASSOCIATION

July 24, 2003

Mr. James Leonard, Chairman
Committee for the Implementation of Textile Agreements
U.S. Department of Commerce – Room H310
14th and Constitution, NW
Washington DC 20230

Dear Mr. Leonard:

The American Manufacturing Trade Action Coalition, American Textile Manufacturers Institute and the National Textile Association petition that the Committee for the Implementation of Textile Agreements (CITA) impose a textile safeguard action under the procedures set forth in Federal Register notice 03-12893 as provided for in the Report of the Working Party on the Accession of China to the World Trade Organization (WTO) with respect to imports of products that have been integrated under category 349/649, brassieres.

The member companies of the trade associations making this request represent over two-thirds of domestic textile production and produce component that go into the product in question.

As the attached category specific information sheet will show, imports from China of these products have clearly "threatened to impede the orderly development of trade" and caused market disruption in the U.S. market.

As a result, the U.S. textile industry, which depends heavily on production sharing arrangements with Central America, the Caribbean and Mexico, in addition to domestic purchasers, has seen its production of components for the product in question drop substantially because of the Chinese surge. In addition, Chinese prices, which fell 54% in 2002, have put severe downward pricing pressure on U.S. and foreign suppliers, eroding profitability and the ability of other suppliers to compete.

U.S. production of these products fell 7 percent in 2002 while Chinese imports have surged and the Chinese share of the import market is now four times larger than its next largest competitor.

If you need any additional information, please let us know.

Sincerely,

Roger Milliken
American Manufacturing Trade Action Coalition

Willis C. Moore, III
American Textile Manufacturers Institute

William Giblin
National Textile Association

349/649: cotton and man-made fiber brassieres

A. Imports from China and the world (1998-5/03): dozens

	1998	1999	2000	2001	2002	YTD 5/02	YTD 5/03	May-03	YE 5/02	YE 5/03
World	33,049,503	38,861,183	39,216,189	36,902,579	44,641,057	16,081,332	19,427,236	3,924,201	37,961,586	47,986,961
China	3,545,755	3,943,327	4,084,363	3,185,108	10,580,029	2,788,555	6,430,305	1,448,830	4,787,269	14,221,779
China Share	11%	10%	10%	9%	24%	17%	33%	37%	13%	30%

B. U.S. production data: thousands of dozens

	1998	1999	2000	2001	2002
US Production	28,942	32,079	28,360	24,329	22,695
Change	-4%	11%	-12%	-14%	-7%
Domestic market share – All Imports	53%	55%	58%	60%	67%
DMS – Chinese imports	6%	6%	4%	4%	17%
DMS – U.S. production	47%	45%	42%	40%	33%

Prices for imports of man-made fiber brassieres from China fell 54 percent in 2002, dropping from $15.19/square meter to $7.04/square meter. Prices of cotton brassieres fell 15% through YTD 3/03, falling from $6.53 to $5.56/square meter. (Note: man-made fiber brassieres account for approximately 85% of the brassiere market.)

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–21065 Filed 8–14–03; 11:27 am]

BILLING CODE 3510–DR–C

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed application entitled: Next Generation Grant Application Instructions. Copies of the information collection requests can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by October 17, 2003.

ADDRESSES: Send comments to the Corporation for National and Community Service, Ms. Theresa Hill, 8th floor, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Hill at (202) 606–5000, ext. 261; by e-mail at *thill@cns.gov,* or by the TDD number at (202) 565–2799.

SUPPLEMENTARY INFORMATION:

Comment Request

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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 submissions of responses.

Background

The Corporation publishes application guidelines and notices of funding availability that include information about the funding and requirements. The application instructions provide the information, instructions, and forms that potential applicants need to complete an application to the Corporation for funding by utilizing the new eGrants system developed by the Corporation.

Current Action

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application instructions.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Next Generation Grant Application Instructions.

OMB Number: None.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding.

Total Respondents: 40.

Frequency: Once per year.

Average Time Per Response: 10 hours.

Estimated Total Burden Hours: 400.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 13, 2003.

Nancy Talbot,

Director, Program Planning and Development.

[FR Doc. 03–21075 Filed 8–15–03; 8:45 am]

BILLING CODE 6050–$$–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, September 3. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 9 a.m. Topics of discussion will include: an update on development of the Water Resources Plan for the Delaware River Basin; an update on the Tri-State Initiative for watershed management in the 300-square mile area surrounding Port Jervis, New York; a presentation by a representative of the Wildlands Conservancy on the conservation management plan for the Lehigh River Watershed; consideration of whether toxics criteria should be extended to DRBC Water Quality Management Zones 1 and 6; consideration of whether the DRBC should make any additional designations of intra-state tributaries as Outstanding Basin Waters; and a presentation on the proposed submittal to the United States Environmental Protection Agency (EPA), Regions II and III, of four total maximum daily loads (TMDLs) for polychlorinated biphenyls (PCBs) in Delaware River Zones 2 through 5.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include, in addition to the dockets listed below, consideration of a petition submitted by the Pennsylvania Suburban Water Company to suspend Commission approval of Docket D–98–11(CP), the ''Cornog Quarry'' surface water withdrawal project, located in the East Branch Brandywine Creek Watershed in Wallace Township, Chester County, Pennsylvania.

1. *Borough of Weatherly D–80–80 CP RENEWAL 3.* A ground water renewal project with an increase of withdrawal from 12 million gallons (mg)/30 days to 14.2 mg/30 days to supply the applicant's distribution system from existing Wells Nos. 1, 2, and 3 in the Black Creek Watershed. The project is located in Weatherly Borough, Carbon County, Pennsylvania.

2. *Town of Clayton D–84–34 CP RENEWAL 3.* A ground water withdrawal renewal project to continue pumping 8.5 mg/30 days of water to

supply the applicant's public water supply distribution system from existing Wells Nos. 1, 2R and 3 in the Smyrna River Watershed. The project is located in the Town of Clayton, Kent County, Delaware.

3. *Pottstown Plating Works, Inc. D–86–68 RENEWAL 2.* A ground water withdrawal project to continue withdrawal of 6.0 mg/30 days of water to supply the applicant's manufacturing facility from existing Well No. 3 in the Schuylkill River Watershed. The project is located in Pottstown Borough, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Motiva Enterprises, LLC D–87–91 RENEWAL 2.* A ground water renewal project to continue withdrawal of 3.0 mg/30 days from an interceptor trench as part of the applicant's oil recovery/groundwater decontamination project in the Red Lion Creek Watershed. The project is located in New Castle County, Delaware.

5. *Longwood Gardens, Inc. D–92–52 RENEWAL.* A ground water renewal project to continue withdrawal of 8.4 mg/30 days to supply the applicant's ornamental display gardens from existing Wells Nos. B170, B172, 6, 27, B169A, and B16IWG, and new Wells Nos. 169B, Red Lion 28, and B46 in the West Branch Red Clay Creek and West Branch Brandywine Creek watersheds. The project is located in East Marlborough Township, Chester County, Pennsylvania.

6. *Atlantic City Electric Company-Deepwater Generating Station D–92–57 RENEWAL.* A ground water withdrawal project to continue withdrawal of 42 mg/30 days of water to supply the applicant's electric generating facility from existing Wells Nos. 2, 3R, 5 and 7 in the Middle Potomac-Raritan-Magothy aquifer. The project is located in the Delaware River Watershed in Pennsville Township, Salem County, New Jersey.

7. *Motiva Enterprises, LLC D–93–4 RENEWAL.* A ground water renewal project to continue withdrawal of 180 mg/30 days to supply the applicant's refinery and electric generation station from existing Wells Nos. P–1A, P–3B, P–4A, P–5B, P–6A, P–9, P–10A, R–15, and P–16A. The project is located in the C & D Canal East Watershed in New Castle County, Delaware.

8. *United Corrstack, Inc. D–93–40 RENEWAL.* A ground water withdrawal project to continue withdrawal of 17.28 mg/30 days of water to supply the applicant's manufacturing facility from existing Well No. 1 in the Schuylkill River Watershed. The project is located in the City of Reading, Berks County, Pennsylvania.

9. *Pennsylvania American Water Company D–97–34 CP.* A project to replace Well No. 10 in the applicant's water supply system, which has become an unreliable source of supply. The withdrawal from replacement Well No. 10A is proposed to be limited to 17.2 mg/30 days, and the total withdrawal from all wells is proposed to be limited to 22.8 mg/30 days. The project is located in the Saw Creek Watershed in Lehman Township, Pike County, Pennsylvania.

10. *Nestlé Waters North America, Inc. D–98–27 RENEWAL.* A project renewing the withdrawal of 9.0 mg/30 days from Hoffman Springs Nos. 1, 2, and 3 to supply the applicant's bottled water operations. The project is located in the Ontelaunee Creek Watershed in Lynn Township, Lehigh County, Pennsylvania.

11. *Lower Perkiomen Valley Regional Sewer Authority D–2001–42 CP* An application to rerate the Oaks Sewage Treatment Plant (STP) from 9.17 million gallons per day (mgd) to 9.5 mgd. The plant will continue to provide advanced secondary treatment via an anoxic/oxic process. The Oaks STP is located at the confluence of the Perkiomen Creek and the Schuylkill River in Upper Providence Township, Montgomery County, Pennsylvania. The project will continue to serve portions of Upper Providence, Lower Providence, Perkiomen, and Skippack Townships, plus Collegeville and Trappe Boroughs, all in Montgomery County. STP effluent will continue to be discharged to the Schuylkill River through the existing outfall.

12. *City of Newark D–2002–2 CP.* An application to increase the surface water withdrawal allocation from White Clay Creek from 150 mg per 30 days to 317 mg per 30 days (18 mg daily maximum) for direct diversion to the City of Newark's Curtis Filtration Plant and for storage in its new 317 mg off-stream reservoir. The City is also renewing allocation for its existing well supply system and adding replacement Well 17R, for a total combined increase in its groundwater allocation from 144 mg/30 days to 160.5 mg/30 days via Wells 10 through 16, 17R, 19, 20, 21, 23 and 25. The project is located in, and will continue to provide public water supply to, the City of Newark and portions of New Castle County, Delaware. The proposed off-stream earthen reservoir will be located on a 112 acre property along and to the north of Old Paper Mill Road.

13. *Artesian Water Company, Inc. D–2002–34 CP.* A revised application for approval of a ground water withdrawal project to supply up to 19.44 mg/30 days of water to the applicant's public water supply distribution system from new Well No. 2 in the Middle Run Wellfield and new Well No. fASR in the Fairwinds Wellfield, and to increase the combined withdrawal from all 15 wellfields to 593.06 mg/30 days. The project is located in the White Clay Creek Watershed in New Castle County, Delaware.

14. *Nazareth Borough Municipal Authority D–2002–38 CP.* An application to rerate a 1.3 mgd STP to treat 1.6 mgd, while continuing to provide advanced secondary treatment via a sequencing batch reactor process. The plant is located just southeast of the intersection of Van Buren and Nazareth Roads in Lower Nazareth Township, Northampton County, Pennsylvania. No new treatment facilities are proposed and the STP will continue to discharge to Shoeneck Creek, in the Bushkill Creek Watershed, via the existing outfall. The STP will continue to serve Nazareth Borough and portions of Lower Nazareth, Bushkill, and Upper Nazareth Townships, all in Northampton County, Pennsylvania.

15. *Farda Associates, Inc. D–2003–7.* A project to construct a 0.1 mgd STP to serve outlet stores and a food court at the proposed Tannersville Factory Stores Complex located just west of Interstate Route 80 at Pennsylvania Route 715 in Pocono Township, Monroe County, Pennsylvania. An existing 10,000 gallon per day (gpd) septic system, formerly utilized for the Summit Resort, will be used to treat a portion of the proposed development. The proposed STP will be constructed in phases and will provide tertiary treatment via an activate sludge process, sand filtration, and ultraviolet light disinfection prior to discharge to an unnamed tributary of Pocono Creek in the Brodhead Creek Watershed.

16. *Arrowhead Sewer Co., Inc. D–2003–10.* A project to upgrade and expand a 0.25 mgd secondary STP to provide tertiary treatment of 0.4 mgd. The plant is located in western Coolbaugh Township, Monroe County, Pennsylvania, 2000 feet southwest of the Thornhurst area. The project will continue to serve the Arrowhead Lakes residential development in Coolbaugh Township. The project will continue to discharge to the adjacent Lehigh River.

17. *Bedminster Municipal Authority D–2003–14 CP.* A project to construct a 0.26 mgd tertiary STP to replace a 0.1 mgd secondary STP. The STP will continue to serve the Stone Bridge Estates housing development, and may serve other homes in portions of Bedminster Township, all in Bucks County, Pennsylvania. STP effluent will

continue to be discharged to Deep Run in the Tohickon Creek Watershed through the existing outfall.

18. *Citgo Asphalt Refining Company D–2003–21.* A project to increase surface water withdrawal from the tidal portion of Mantua Creek from 4.69 mg/30 days to 7.79 mg/30 days to serve the applicant's asphalt manufacturing process. The project is located in West Deptford Township, Gloucester County, New Jersey. The project intake is situated on Mantua Creek approximately 4,000 feet from its confluence with the Delaware River.

In addition to the public hearing items, the Commission will address the following at its 1:30 p.m. business meeting: Minutes of the May 8, 2003 and June 26, 2003 business meetings; announcements; a report on Basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; a resolution supporting the use of a formal process for developing and evaluating the feasibility of achieving flow targets to address instream flow and freshwater inflow requirements for aquatic ecosystems in the Delaware River Basin, and recognizing a subcommittee on ecological flows to assist in the development of scientifically-based ecological flow requirements; and a resolution directing the executive director to submit the proposed TMDLs for PCBs in Delaware River Zones 2 through 5 to EPA Regions II and III on behalf of the estuary states.

Draft dockets scheduled for public hearing on September 3, 2003 are posted on the Commission's Web site, *http://www.drbc.net,* where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact Thomas L. Brand at 609–883–9500 ext. 221 with any docket-related questions.

Persons wishing to testify at this hearing are requested to register in advance with the Commission Secretary at 609–883–9500 ext. 203. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the hearing should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Dated: August 12, 2003.

Pamela M. Bush, Esquire,

Commission Secretary.

[FR Doc. 03–20992 Filed 8–15–03; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The 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 September 17, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory 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: August 12, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: U.S.—Brazil Higher Education Consortia Program Application Guidelines.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 50.

Burden Hours: 1,500.

Abstract: The U.S.—Brazil Higher Education Consortia Program (U.S.—Brazil Program) is a grant competition run cooperatively by the governments of the United States and Brazil. The purpose of this competition is to promote student-centered cooperation between the United States and Brazil to increase cross-national education and training opportunities in a wide range of academic and professional disciplines.

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 2325. 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. 03–20953 Filed 8–15–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The 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 October 17, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory 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: August 13, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Written Request for Assistance or Application for Client Assistance Program.

Frequency: One time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 9.

Abstract: This document is used by States to request funds to establish and carry out Client Assistance Programs (CAP). CAP is mandated by the Rehabilitation Act of 1973, as amended (Act) to assist vocational rehabilitation clients and applicants in their relationships with projects, programs, and services provided under the Act.

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 2320. 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 Sheila Carey at her e-mail address *Sheila.Carey@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. 03–21027 Filed 8–15–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Education.

ACTION: Notice—Computer matching between the Department of Education and the Internal Revenue Service, Department of Treasury.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, Public Law 100–503, as amended, and the Office of Management and Budget (OMB) Final Guidance on the Conduct of Matching Programs, notice is hereby given of the computer matching program between the Department of Education (ED) (the recipient agency), and the Internal Revenue Service (IRS), Department of Treasury (the source agency).

Notice of the matching program was last published in the **Federal Register** on August 23, 2000 (65 FR 51301); the program became effective February 14, 2001. The 18-month Computer Matching Agreement (CMA) was recertified for an additional 12 months on August 13, 2002. The 12 month recertification will expire on August 13, 2003. This computer matching program between the IRS and ED will become effective as explained below.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), the OMB Final Guidance on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Circular A–130, Appendix I, we provide the following information:

1. *Names of Participating Agencies.* The U.S. Department of Education (ED) and the Internal Revenue Service (IRS) of the U.S. Department of Treasury.

2. *Purpose of the Match.* This matching program, entitled Taxpayer Address Request (TAR), permits ED to have access to the mailing address of any taxpayer who has defaulted on certain loans or owes on a grant overpayment under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a *et seq.*) for the purposes of locating the taxpayer to collect the loan or grant overpayment. In accordance with the provisions of the Internal Revenue Code, 26 U.S.C. 6103(m)(4)(B), this agreement further provides for redisclosure by the Secretary of Education of a taxpayer's mailing address to any lender, or State or nonprofit guarantee agency, also participating under the Higher Education Act, or any educational institution with which the Secretary of Education has an agreement under that Act.

3. *Authority for Conducting the Matching Program.* The information contained in the IRS data base is referred to as TAR, and is authorized under the Internal Revenue Code (IRC), 26 U.S.C. 6103(m)(2) and (4).

4. *Categories of Records and Individuals Covered.* The records to be used in the match and the roles of the matching participants are described as follows: ED will provide the Social Security Number (SSN) and first four letters of the last name of each individual who has defaulted under a loan program or owes a grant overpayment under Title IV of the Higher Education Act of 1965. This information will be extracted from the Student Financial Assistance Collection Files system of records (18–11–07), most recently published at 64 FR 30166–69 (June 4, 1999), as amended, 64 FR 72384, 72407 (December 27, 1999). The ED data will be matched against the IRS' system of records, CADE Individual Master File (IMF), Treasury/IRS 24.030, last published at 66 FR 63783, 63800–01 (December 10, 2001), in order to collect the most recent address of each taxpayer who matches the SSN and first four letters of the last name (or surname) provided by ED.

5. *Effective Dates of the Matching Program.* The matching program will become effective at the latest of the following three dates: (1) 40-days after the signing of the transmittal letter sending the computer matching program notification to Congress and the Office of Management and Budget (OMB), unless OMB disapproves the matching program within the 40-day review period; (2) 30 days after publication of this notice in the **Federal Register**; or (3) August 13, 2003. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

6. *Address for Receipt of Public Comments or Inquiries.* The person to contact if there are any questions or inquiries is: Gregory Plenty, IT Specialist, Federal Student Aid, Student Credit Management, U.S. Department of Education, 830 First Street, NE., Cubicle #44C3, Washington, DC 20202, Telephone: 202–377–3253. If you use a telecommunications device for the deaf (TTD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Authority: 5 U.S.C. 552a; Pub. L. No. 100–503.

Dated: July 7, 2003.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 03–21037 Filed 8–15–03; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

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), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No.92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, September 4, 2003, 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport, Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

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

1. Presentation and discussion on the draft Interim Measure/Interim Remedial Action document for the Present Landfill.

2. Discussion on the draft Rocky Flats Long-Term Stewardship Strategy document.

3. Other Board business may be conducted as necessary.

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 oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions 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.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 8:30 a.m. to 4:30 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deborah French at the address or telephone number listed above. Board meeting minutes are posted on RFCAB's Web site within one month following each meeting at: *http://www.rfcab.org/Minutes.HTML.*

Issued at Washington, DC on August 13, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–21026 Filed 8–15–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 03–30–NG]

Transalta Chihuahua S.A. DE C.V.; Order Granting Long-Term Authority To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy (FE) gives notice that on July 15, 2003, it issued DOE/FE Order No. 1877 granting TransAlta Chihuahua (TAC) authority to import up to 49,500 thousand cubic feet per day of natural gas to Mexico, beginning on July 15, 2003, and extending through July 15, 2008. The natural gas will be export under a Fuel Supply Contract with

Cynergy Marketing & Trading, LP and will be used to as fuel for TAC's natural gas-fired power facility near Ciudad Juárez, Chihuahua, Mexico.

This Order may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0334, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 12, 2003.

Clifford Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

[FR Doc. 03–21023 Filed 8–15–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 03–27–NG, et al.]

Transco Energy Marketing Company, etc.; Orders Granting and Vacating Authority To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during July 2003, it issued Orders granting and vacating authority to import and export natural gas. These Orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on August 12, 2003.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

APPENDIX—ORDERS GRANTING AND VACATING IMPORT/EXPORT AUTHORIZATIONS

[DOE/FE AUTHORITY]

Order No.	Date issued	Importer/Exporter FE Docket No.	Import volume	Export volume	Comments
1873	7–3–03	Transco Energy Marketing Company; 03–27–NG.	730 Bcf		Import natural gas from Canada, beginning on February 7, 2003, and extending through February 6, 2005.
1874	7–8–03	AltaGas Marketing (U.S.) Inc.; 03–26–NG.	30 Bcf		Import and export up to a combined total of natural gas from and to Canada, beginning on July 9, 2003, and extending through July 8, 2005.
1875	7–8–03	Apache Corporation; 03–28–0–NG.	250 Bcf		Import and export up to a combined total of natural gas from and to Canada, beginning on July 8, 2003, and extending through July 7, 2005.
1876	7–11–03	Alliance Energy Services, LLC; 03–29–NG.	400 Bcf		Import and export up to a combined total of natural gas from and to Canada, beginning on August 1, 2003, and extending through July 31, 2005.
1855–A	7–15–03	TransAlta Chihuahua S.A. de C.V.; 03–08–NG.			Vacate blanket export to Mexico.
1878	7–21–03	AEP Energy Services, Inc.; 03–31–NG.	200,000 Mcf per day. 200,000 Mcf per day.	200,000 Mcf per day. 200,000 Mcf per day.	Import and export natural gas from and to Canada, and import and export natural gas from and to Mexico, beginning on April 2, 2003, and extending through April 1, 2005.
1879	7–23–03	Louis Dreyfus Energy Canada Inc.; 03–32–NG.	100 Bcf		Import and export up to a combined total of natural gas from and to Canada, beginning on August 1, 2003, and extending through July 31, 2005.
1880	7–29–03	ONEOK Energy Marketing and Trading Company, L.P.; 03–34–NG.	150 Bcf		Import and export up to a combined total of natural gas from and to Canada and Mexico, beginning on July 31, 2003, and extending through July 30, 2005.
1881	7–29–03	Distribuidora de Gas Natural de Mexicali; 03–35–NG.	19 Bcf	19 Bcf	Import natural gas from Canada, and export natural gas to Mexico, beginning on July 31, 2003, and extending through July 30, 2005.

[FR Doc. 03–21024 Filed 8–15–03; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RT02–1–000, EL02–9–000 and RM01–12–000]

Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, Tucson Electric Power Company, WestConnect RTO, LLC, Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design; Notice of Technical Conference

August 7, 2003.

Take notice that a technical conference for WestConnect RTO, LLC, will be held on September 24, 2003, from approximately 10 a.m. to 4 p.m. Pacific Daylight Time at the Pointe Hilton Squaw Peak Resort, 7677 N. 16th Street in Phoenix, Arizona. Members of the Commission will attend and participate in the discussions.

This conference is one of a series of regional technical conferences announced in the White Paper issued in this docket on April 28, 2003. The Commission intends to use these conferences to discuss with states and market participants in each region reasonable timetables for addressing wholesale market design issues discussed in the White Paper and ways to tailor the final rule in this proceeding to benefit customers within the region. The conference will also discuss infrastructure issues in the Southwest.

The Commission is inviting selected panelists to participate in this conference; it is not entertaining requests to make presentations. Further details of the conference, including the agenda, will be specified in a subsequent notice. All interested persons may attend the conference, and registration is not required. However, in-person attendees are encouraged to register on-line at *http://www.ferc.gov/home/conferences.asp.*

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's FERRIS system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via Real Audio or a Phone Bridge Connection for a fee. Persons interested in making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.org* and click on ''FERC.''

For more information about the conference, please contact Sarah McKinley at (202) 502–8004 or *sarah.mckinley@ferc.gov.*

Linda Mitry,

Acting Secretary.

[FR Doc. 03–20981 Filed 8–15–03; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–356–004]

Canyon Creek Compression Company; Notice of Filing of Refund Report

August 12, 2003.

Take notice that on August 8, 2003, Canyon Creek Compression Company (Canyon) filed a refund report in Docket No. RP02–356–000.

Canyon states that the filing and refunds were made to comply with the Commission's order approving the Stipulation and Agreement (Settlement) in the captioned docket issued on May 23, 2003. Canyon states that these amounts were paid by Canyon on July 18, 2003.

Canyon further states that the refund report summarizes transportation refund amounts for the period December 1, 2002 through May 31, 2003 pursuant to Article II of the Settlement.

Canyon states that copies of its filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP02–356.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eFiling (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 19, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21098 Filed 8–15–03; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–155–002]

Gulf South Pipeline Company, LP; Notice of Compliance Filing

August 12, 2003.

Take notice that on August 6, 2003, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective October 1, 2003.

Third Revised Sheet No. 1.
Fourth Revised Sheet No. 2.
Substitute First Revised Sheet No. 25A.
First Revised Sheet No. 450.
First Revised Sheet No. 451.
First Revised Sheet No. 452.
First Revised Sheet No. 453.
First Revised Sheet No. 454.
First Revised Sheet No. 455.
Second Revised Sheet No. 440.1
Sheet Nos. 4402–4499.

Gulf South states that the referenced tariff sheets related to Gulf South's proposed FSS–M Service (Firm Storage Service—Magnolia) are filed pursuant to the Commission's directives.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference

Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 18, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–21094 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES03–50–000]

International Transmission Company; Notice of Application

August 12, 2003.

Take notice that on August 5, 2003, International Transmission Company (International Transmission) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to increase the amount of long-term debt securities that it may issue from $200 million to $210 million.

International Transmission also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

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 eLibrary (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.

Comment Date: September 2, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–21096 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–471–002]

MIGC, Inc.; Notice of Compliance Filing

August 8, 2003.

Take notice that on August 5, 2003, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No.1, Second Sub Fourth Revised Sheet No. 84, to become effective July 1, 2003.

MIGC asserts that the purpose of this filing is to comply with the Commission's Letter Order issued August 1, 2003, in Docket No. RP03–471–001, requiring MIGC to revise certain tariffs which were filed in MIGC's Order No. 587–R compliance filing in RM96–1–024 made on July 7, 2003.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 18, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20978 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–370–002]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

August 12, 2003.

Take notice that on August 7, 2003, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Second Sub. Fifth Revised Sheet No. 458, with an effective date of July 1, 2003.

National Fuel states that the purpose of this filing is to submit a revised tariff sheet in compliance with the Commission letter order issued on July 31, 2003, in Docket No. RP03–370–001 and to conform to the WGQ Standards incorporated by Order No. 587–R, Standards for Business Practices of Interstate Natural Gas Pipelines.

National Fuel states that copies of this filing were served upon its customers, interested state commissions and the parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the

document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 19, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21100 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–091]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

August 12, 2003.

Take notice that on August 6, 2003, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 26V, to be effective August 1, 2003.

Natural states that the purpose of this filing is to terminate, effective August 1, 2003, an existing negotiated rate transaction between Natural and NRG Power Marketing, Inc.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: August 18, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21104 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–506–008]

Northwest Pipeline Corporation; Notice of Compliance Filing

August 8, 2003.

Take notice that on August 1, 2003, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective as indicated.

Third Substitute Eighth Revised Sheet No. 24 (effective February 25, 2001).
Third Substitute Fifth Revised Sheet No. 259 (effective February 25, 2001).
Third Substitute First Revised Sheet No. 278–C (effective February 25, 2001).
First Revised Sheet No. 278–D (effective October 26, 2001).

Northwest states that this filing complies with the Commission's order dated July 29, 2003 in Docket Nos. RP00–506–004, 005, 006 and 007. Northwest states that the proposed tariff sheets remove previously proposed restrictions on reductions of maximum daily quantities and maximum daily delivery obligations at individual receipt and delivery points in the event of a partial capacity turnback. Northwest states that a copy of this filing has been served upon each person designated on the official service list complied by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20977 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–560–000]

OkTex Pipeline Company; Notice of Compliance Filing

August 12, 2003.

Take notice that on August 8, 2003, OkTex Pipeline Company (OkTex), filed revised tariff sheets in compliance with the Commission's directives in Order No. 587–R.

OkTex states that the tariff sheets reflect the changes to OkTex's tariff that result from the North American Standards Board's (NAESB) consensus standards that were adopted by the Commission in its March 12, 2003 Order No. 587–R in Docket No. RM96–1–024. OkTex states that it will implement the NAESB consensus standards for July 1, 2003 business, and the revised tariff sheets therefore reflect an effective date of July 1, 2003.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: August 19, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21101 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–2–000 and RM01–12–000]

PJM Interconnection, LLC; Notice of Technical Conference Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design

August 7, 2003.

Take notice that a technical conference for PJM Interconnection, LLP, will be held on August 28, 2003, from 1 p.m. to 5 p.m. Eastern Daylight Time at the Wyndham Hotel, 700 King Street, Wilmington, Delaware. Members of the Commission will attend and participate in the discussions.

This conference is one of a series of regional technical conferences announced in the White Paper issued in this docket on April 28, 2003. The Commission intends to use these conferences to discuss with states and market participants in each region reasonable timetables for addressing wholesale market design issues discussed in the White Paper and ways to tailor the final rule in this proceeding to benefit customers within the region.

The Commission is inviting selected panelists to participate in this conference; it is not entertaining requests to make presentations. Further details of the conference, including the agenda, will be specified in a subsequent notice. All interested persons may attend the conference, and registration is not required. However, in-person attendees are encouraged to register on-line at *http://www.ferc.gov/home/conferences.asp*.

This technical conference will immediately follow a meeting of the PJM Members Committee, which will be held that morning at the same location. PJM offers a web broadcast of its meeting through the PJM Web site and will also broadcast the FERC technical conference. To access the web broadcast, go to *http://www.pjm.com/committees/members/members.html*. To access the broadcast window directly, go to *http://events01.activate.net/pmtv/pjm/10064/*.

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's FERRIS system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via Real Audio or a Phone Bridge Connection for a fee. Persons interested in making arrangements should contact David Reininger or Julia Morelli at the RT01–2–000 Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.org* and click on ''FERC.''

In addition, for more information about the conference, please contact Sarah McKinley at (202) 502–8004 or *sarah.mckinley@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20980 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–559–000]

Questar Pipeline Company; Notice of Tariff Filing

August 8, 2003.

Take notice that on August 5, 2003, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 169, to be effective September 5, 2003.

Questar states that it is proposing to update 10.5(b) to the General Terms and Conditions of part 3 of its tariff to be more consistent with the economic and operational conditions of open-access storage service and to promote efficient utilization of Questar's Clay Basin storage capacity. Under Questar's proposal, FSS shippers will be notified at least six months prior to their contract expiration date to withdraw their remaining working gas or to transfer it to another Clay Basin storage or park and loan account.

Questar states that in light of the flexibility that its tariff provides, there are ample opportunities for shippers to withdraw their gas or make other arrangements for disposition of their gas from the Clay Basin storage reservoir prior to the time of contract.

Under its proposal, Questar states that it will, within two business days after expiration or termination of the service agreement, hold a bid period of ten days to sell, at the highest rate per Dth, any gas remaining in the FSS shipper's account. Questar asserts that any remaining gas unsold after the bid period will be subsequently sold on a first-come, first-served basis. Questar explains that upon receipt of payment from all sales, proceeds will be distributed to the shipper less any administrative costs incurred by Questar. Questar further explains that each purchasing shipper will have 15 days to withdraw or transfer its gas to a storage or park and loan account after payment has been received by Questar. Questar believes that these changes balance its needs with those of its customers.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact

(202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: August 18, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20979 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–561–000]

Questar Southern Trails Pipeline Company; Notice of Tariff Filing

August 12, 2003.

Take notice that on August 8, 2003, Questar Southern Trails Pipeline Company (Southern Trails) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective September 8, 2003:

Second Revised Sheet No. 1.
Second Revised Sheet No. 30.
Second Revised Sheet No. 112.
First Revised Sheet No. 113.
Sheet Nos. 114 through 118.

Southern Trails states that it is proposing to revise its tariff to describe its ability to provide its customers with specific types of non-discriminatory discounts that will not be considered as material deviations from Southern Trails' forms of service agreements. Southern Trails states that under its proposed tariff language, eligible discounts will result in rates between Southern Trails' maximum and minimum rates for service under rate schedules of its tariff. Southern Trails asserts that approval of these discount provisions will enhance Southern Trails' flexibility to provide transportation discounts in a variety of situations that the Commission has previously recognized as appropriate, and reduce the need and administrative burden of filing discounted agreements with the Commission as non-conforming service agreements.

Southern Trails states that a copy of this filing has been served upon its customers and the Public Service Commissions of Utah, New Mexico, Arizona, and California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: August 20, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21102 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–1012–000]

RAM Energy Products, L.L.C.; Notice of Issuance of Order

August 11, 2003.

RAM Energy Products, Inc. (REP) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for wholesale sales of capacity, energy, and ancillary services at market-based rates, the resale of firm transmission rights and reassignment of transmission capacity. REP also requested waiver of various Commission regulations. In particular, REP requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by REP.

On July 25, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by REP should file a motion to intervene or protest 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).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 25, 2003.

Absent a request to be heard in opposition by the deadline above, REP is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of REP, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of REP's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, 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. 03–20965 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–49–000]

Riverside Energy Center, LLC; Notice of Issuance of Order

August 7, 2003.

Riverside Energy Center, LLC (Riverside) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff for sales of capacity, energy,

certain ancillary services at market-based rates, and the reassignment of transmission capacity and the resale of firm transmission rights. Riverside also requested waiver of various Commission regulations. In particular, Riverside requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Riverside.

On December 9, 2002, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Riverside should file a motion to intervene or protest 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).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 18, 2003.

Absent a request to be heard in opposition by the deadline above, Riverside is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Riverside, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Riverside's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, 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.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–20964 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR03–6–000]

Sinclair Oil Corporation, Complainant, v. ChevronTexaco Pipeline Company, Respondent; Notice of Complaint Requesting Fast Track Processing

August 7, 2003.

Take notice that on August 6, 2003, Sinclair Oil Corporation (Sinclair) tendered for filing a Complaint Requesting Fast Track Processing against ChevronTexaco Pipeline Company (CPL).

Sinclair states that it is an interstate shipper of jet fuel on a pipeline that CPL owns and operates between Salt Lake Station, Davis County, Utah and Salt Lake Municipal Airport, Salt Lake City, Utah. Sinclair alleges that the CPL pipeline is necessarily engaged in interstate commerce and is therefore subject to FERC regulation, and that CPL is obligated to file a tariff with FERC with respect to that pipeline in accordance with section 342.2 of the Commission's regulations. Sinclair alleges that CPL has violated the Interstate Commerce Act by failing to file a tariff with the Commission for this pipeline.

Any person desiring to be heard 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. The answer to the complaint and all comments, interventions or protests must be filed on or before the comment date below. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: August 26, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–20966 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–352–002]

Southern Star Central Gas Pipeline, Inc.; Notice of Tariff Filing

August 12, 2003.

Take notice that on August 6, 2003, Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed below to become effective May 1, 2003:

Substitute Original Sheet No. 5.
Substitute Original Sheet No. 400.
Substitute Original Sheet No. 408.
Substitute Original Sheet No. 416.
Substitute Original Sheet No. 423.
Substitute Original Sheet No. 430.
Substitute Original Sheet No. 438.
Substitute Original Sheet No. 444.
Substitute Original Sheet No. 451.
Substitute Original Sheet No. 456.
Substitute Original Sheet No. 457.
Substitute Original Sheet No. 462.
Substitute Original Sheet No. 500.

Southern Star states that the purpose of this filing is to correct an inadvertent error in their April 25, 2003 filing by changing the company description to ''a Delaware corporation'' on the applicable tariff sheets from the incorrect description ''a Delaware limited liability company''.

Southern Star states that copies of the filing are being served upon Southern Star's jurisdictional customers and interested state commissions, and those parties appearing on the official service list for this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of

the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eFiling (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 18, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–21099 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–059]

TransColorado Gas Transmission Company; Notice of Tariff Filing

August 12, 2003.

Take notice that on August 5, 2003, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 21, Second Revised Sheet No. 22 and Third Revised Sheet No. 22A, to be effective August 5, 2003.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets propose to revise TransColorado's Tariff to reflect negotiated-rate contracts with BP Energy Co. and Chevron USA, Inc.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 18, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21103 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–346–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

August 12, 2003.

Take notice that on August 4, 2003, Transcontinental Gas Pipe Line Corporation (Transco), pursuant to and in accordance with Section 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's Regulations, filed an application, in abbreviated form, in Docket No. CP03–346–000 for an order permitting and approving the abandonment of storage service under Rate Schedule LG–A provided to UGI Utilities, Inc., as more fully described therein.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the abandonment of service is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Comment Date: August 25, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–21095 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–487–002 and RP01–14–002]

Tuscarora Gas Transmission Company; Notice of Compliance Filing

August 12, 2003.

Take notice that on August 4, 2003, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff Original Volume No.

1, the revised tariff sheets listed on Appendix A of the filing.

Tuscarora states that the purpose of this filing is to comply with the Commission's July 3, 2003, order on Tuscarora's Order No. 637 compliance filing submitted on May 13, 2002, in the captioned proceedings.

Tuscarora states that copies of its filing have been mailed to all affected customers and interested state commissions, as well as those persons listed on the Commission's official service list in these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: August 18, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20976 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03–207–002, et al.]

PM Interconnection, L.L.C., et al.; Electric Rate and Corporate Filings

August 8, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. PJM Interconnection, L.L.C.

[Docket No. EL03–207–002]

Take notice that on July 23, 2003, PJM Interconnection, L.L.C. (PJM) filed a redlined version of Original Sheet No. 523E that was inadvertently omitted from the July 22, 2003 compliance filing to PJM's Open Access Transmission Tariff.

Comment Date: August 18, 2003.

2. American Electric Power Service Corporation

[Docket No. ER03–242–003]

Take notice that on July 28, 2003, PJM Interconnection, L.L.C. tendered for filing with the Federal Energy Regulatory Commission (Commission) a letter advising the Commission that there are no pending or effective PJM tariff sheets that reflect American Electric Power Service Corporation's (AEP) rates or revenue requirement originally filed by AEP in the above proceeding Tariff references to AEP's rates and revenue requirement were removed by the May 1, 2003 compliance filing in the above docket.

Comment Date: August 20, 2003.

3. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER03–366–004, ER03–368–005]

Take notice that on August 4, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing proposed revisions to the Midwest ISO Open Access Transmission Tariff (Tariff), FERC Electric Tariff, Second Revised Volume No. 1, in compliance with the Commission's Order in Midwest Independent Transmission System Operator, Inc., 104 FERC ¶ 61,027 (2003). The Midwest ISO respectfully requests that the Commission grant the effective date of January 1, 2003 for the proposed revisions to the Midwest ISO Tariff submitted herewith.

The Midwest ISO states that it has served copies of its filing on all affected customers. In addition, the Midwest ISO states it has electronically served a copy of this filing, without attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee 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. The Midwest ISO states that it will provide hard copies to any interested parties upon request.

Comment Date: August 25, 2003.

4. Soyland Power Cooperative, Inc.

[Docket No. ES03–47–000]

Take notice that on August 1, 2003, Soyland Power Cooperative, Inc. (Soyland) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to enter into a short-term secured line of credit agreement not to exceed $18 million with the National Rural Utilities Cooperative Finance Corporation.

Soyland also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: August 29, 2003.

5. Soyland Power Cooperative, Inc.

[Docket No. ES03–48–000]

Take notice that on August 1, 2003, Soyland Power Cooperative, Inc. (Soyland) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to enter into a long-term secured note not to exceed $2,858,000 with the National Rural Utilities Cooperative Finance Corporation.

Soyland also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: August 29, 2003.

6. Soyland Power Cooperative, Inc.

[Docket No. ES03–49–000]

Take notice that on August 1, 2003, Soyland Power Cooperative, Inc. (Soyland) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to enter into a long-term secured note not to exceed $20 million with the National Rural Utilities Cooperative Finance Corporation.

Soyland also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: August 29, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such

motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (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. 03–20973 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–119–000, et al.]

Wisconsin Electric Power Company, et al.; Electric Rate and Corporate Filings

August 7, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Wisconsin Energy Corporation, Wisconsin Electric Power Company, W.E. Power LLC, Port Washington Generating Station LLC

[Docket Nos. EC03–119–000 and EL03–218–000]

Take notice that on August 4, 2003, Wisconsin Energy Corporation, Wisconsin Electric Power Company, W.E. Power LLC, and Port Washington Generating Station LLC (Port Washington) filed an Application for Approval of the Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act, 16 U.S.C. Section 824b (2000), and a Petition for Declaratory Order relating to the transfer of certain jurisdictional interconnection facilities associated with generating assets being constructed by Port Washington.

Comment Date: August 27, 2003.

2. Duke Energy Fayette, LLC

[Docket No. ER03–794–002]

Take notice that on August 4, 2003, Duke Energy Fayette, LLC (Duke Fayette) tendered for filing with the Federal Energy Regulatory Commission (Commission) its compliance filing in accordance with the Commission's order issued July 18, 2003 in Docket Nos. ER03–794–000 and 001. Duke Fayette states that it has served copies of the filing on the Pennsylvania Public Utility Commission and the persons on the service list in Docket No. ER03–794.

Comment Date: August 25, 2003.

3. Western Systems Power Pool, Inc.

[Docket No. ER03–1149–000]

Take notice that on August 1, 2003, the Western Systems Power Pool, Inc. (WSPP) submitted changes to the WSPP Agreement intended to update or clarify certain provisions of the Agreement. The WSPP seeks an effective date of October 1, 2003, for these changes.

WSPP states that copies of the transmittal letter have been served on all state commissions within the United States. This filing also has been posted on the WSPP homepage (www.wspp.org) thereby providing notice to all WSPP members.

Comment Date: August 22, 2003.

4. Texxon Utilities, Ltd. Co.

[Docket No. ER03–1150–000]

Take notice that on August 1, 2003, Texxon Utilities, Ltd. Co. (Texxon) tendered for filing with the Commission for acceptance of Texxon 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.

Texxon states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. Texxon states that it is not in the business of generating or transmitting electric power.

Comment Date: August 22, 2003.

5. PJM Interconnection L.L.C.

[Docket No. ER03–1152–000]

Take notice that on August 1, 2003, PJM Interconnection, L.L.C. (PJM) submitted for filing an Interconnection Service Agreement (ISA) among PJM, The American Sugar Refining Company, and Baltimore Gas and Electric Company.

PJM requests a waiver of the Commission's 60-day notice requirement to permit a July 2, 2003 effective date for the ISA.

PJM states that copies of this filing were served upon the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: August 22, 2003.

6. PJM Interconnection L.L.C.

[Docket No. ER03–1153–000]

Take notice that on August 1, 2003, PJM Interconnection, L.L.C. (PJM) submitted for filing an Interconnection Service Agreement (ISA) among PJM, PSEG Fossil, L.L.C., and Public Service Electric and Gas Company, an interim ISA between PJM and PSEG Power LLC and two notices of cancellation for interim ISAs that have terminated or been superseded.

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective dates agreed to by the parties. PJM states that copies of this filing were served upon the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: August 22, 2003.

7. American Transmission Systems, Incorporated

[Docket No. ER03–1157–000]

Take notice that on August 4, 2003, American Transmission Systems, Incorporated (ATSI) submitted for filing an Agreement for Construction, Operation, and Compensation of Delivery Points (Agreement) between ATSI and the Village of Edgerton, Ohio. ATSI states that it provides network integration transmission service under its Open Access Transmission Tariff to American Municipal Power—Ohio, Inc. on behalf of Edgerton and other municipal electric systems. ATSI states that the purpose of the Agreement is to add a 69 kV delivery point for Edgerton. ATSI is requesting an effective date of August 1, 2003 for the Service Agreement.

ATSI states that copies of this filing were served on the representatives of the Village of Edgerton, American Municipal Power—Ohio, Inc., and the Public Utilities Commission of Ohio.

Comment Date: August 25, 2003.

8. American Electric Power Service Corporation

[Docket No. ER03–1158–000]

Take notice that on August 4, 2003, the American Electric Power Service Corporation (AEPSC) tendered for filing pursuant to Section 35.15 of the Federal Energy Regulatory Commission's regulations, 18 CFR Section 35.15, a Notice of Termination of an Amended and Restated Interconnection and Operation Agreement between Columbus Southern Power Company and Duke Energy Franklin, L.L.C.

designated as Second Revised Service Agreement No. 270 under American Electric Power Operating Companies' Open Access Transmission Tariff. AEP requests an effective date of July 14, 2003.

AEPSC states that a copy of the filing was served upon Duke Energy Franklin, L.L.C. and the Public Utilities Commission of Ohio.

Comment Date: August 25, 2003.

9. Hershey Chocolate & Confectionary Corporation

[Docket No. ER03–1159–000]

Take notice that on August 4, 2003, Hershey Chocolate & Confectionary Corporation (Hershey) filed with the Federal Energy Regulatory Commission (Commission) an application for authority to sell electricity at market-based rates, a market-based rate tariff, and a request for certain regulatory waivers and blanket approvals, including blanket approval to issue securities under section 204 of the Federal Power Act. Hershey requests an effective date of August 12, 2003 for its market-based rate authority.

Comment Date: August 25, 2003.

10. American Electric Power Service Corporation

[Docket No. ER03–1160–000]

Take notice that on August 4, 2003, American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Termination of an Amended Interconnection and Operation Agreement between Appalachian Power Company and Mirant Danville, L.L.C. designated as Second Revised Service Agreement No. 427 under American Electric Power Operating Companies' Open Access Transmission Tariff.

AEPSC requests an effective date of July 17, 2003. AEPSC states that a copy of the filing was served upon Mirant Danville, L.L.C. and the Virginia State Corporation Commission.

Comment Date: August 25, 2003.

11. New England Power Pool

[Docket No. ER03–1161–000]

Take notice that on August 4, 2003, the New England Power Pool (NEPOOL) Participants Committee filed to terminate the membership of PG&E Energy Trading ''Power, LP (PGET). The Participants Committee requests an October 1, 2003 effective date for the termination of the Participant status of PGET.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: August 25, 2003.

12. International Energy Consultants, Inc.

[Docket No. ER03–1163–000]

Take notice that on August 4, 2003, International Energy Consultants, Inc. filed a request for termination of their market-based rate authority pursuant to the Commission's Rules, 18 CFR 35.15.

Comment Date: August 25, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (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.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–21050 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5334–019]

Charter Township of Ypsilanti, Michigan; Notice of Availability of Environmental Assessment

August 12, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects staff (staff) reviewed the application for a new major license for the Ford Lake Hydroelectric Project, located on the Huron River in Ypsilanti Township, Washtenaw County, Michigan, and prepared an environmental assessment (EA) for the project.

The EA contains staff's analysis of the potential environmental effects of the project and concludes that licensing the project, with staff's recommended measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the eLibrary (FERRIS) link. Enter the docket number, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix ''Ford Lake Hydroelectric Project No. 5334,'' to all comments. For further information, please contact Monte Ter Haar at (202) 502–6035 or at *monte.terhaar@ferc.gov*.

Comments 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 at *http://www.ferc.gov* under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–21093 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12454–000]

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 7, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12454–000.

c. *Date filed:* April 8, 2003, and supplemented on June 2, 2003.

d. *Applicant:* Energie Group.

e. *Name of Project:* Williams Energy Project.

f. *Location:* On the East Fork of the White River, in Lawrence County, Indiana. The owner of the existing facilities is the Indiana Department of Natural Resources.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Stacy L. Harriott, Energie Group, 643 Monroe Street, Suite 104, Sheboygan Falls, WI 53085, (920) 467–9048.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 280-foot-long, 21.7-foot-high dam, (2) an existing reservoir having a surface area of 263 acres with a storage capacity of 4010 acre-feet and a normal water surface elevation of 480 feet NGVD, (3) an existing powerhouse containing four existing generating units and one proposed generating unit having a total installed capacity of 4250 kW, (4) an existing Transmission line, and (5) appurtenant facilities.

The applicant estimates that the average annual generation would be 21.286 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, 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.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–20968 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12460–000]

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 7, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12460–000.

c. *Date filed:* July 14, 2003.

d. *Applicant:* North Snake Groundwater District.

e. *Name of Project:* North Snake Groundwater Project.

f. *Location:* On Curren Ditch, in Gooding County, Idaho. The applicant owns or controls by eaesment all lands needed for the project.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jeff Martin, North Snake Groundwater District, 152 East Main, Jerome, ID 83338, (208) 324–8995.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) The existing Diversion structure, (2) an existing 6,700-foot-long, 36'' diameter pipeline, (3) an existing intake structure to be modified, (4) a proposed 1,996-foot-long, 24-inch diameter penstock, (5) a proposed powerhouse with one generating unit having an installed capacity of 180 kW, (6) a proposed 1,320-foot-long transmission line, and (7) appurtenant facilities.

The applicant estimates that the average annual generation would be 490 MWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, 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.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the

Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–20969 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12461–000]

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 7, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12461–000.

c. *Date filed:* July 8, 2003.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Allegheny Lock and Dam #3 Project.

f. *Location:* On the Allegheny River, in Allegheny County, Pennsylvania, utilizing Allegheny Lock and Dam 3 which is administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project utilizing the U.S. Army Corps of Engineer's existing Allegheny Lock and Dam 3 and reservoir would consist of: (1) Ten proposed 60-foot-long, 72-inch diameter steel penstocks, (2) a proposed powerhouse containing ten generating units having a total installed capacity of 10 MW; (3) a proposed 1-mile-long 14.7 transmission line; and (4) appurtenant facilities.

The project would have an annual generation of 61 GWh that would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, 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 ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file

comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–20970 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2721–013]

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

August 8, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2721–013.

c. *Date Filed:* September 28, 1998.

d. *Applicant:* PPL Maine, LLC.

e. *Name of Project:* Howland Hydroelectric Project.

f. *Location:* On the Piscataquis River in the town of Howland, Penobscot County, Maine. There are no federal lands within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Scott D. Hall, PPL Maine, LLC, Davenport Street, P.O. Box 276, Milford, ME 04461–0276, 207–827–2247.

i. *FERC Contact:* Ed Lee, *eddie.lee@ferc.gov*, or (202) 502–6082.

j. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.

The deadline for filing comments, recommendations, terms and conditions and prescriptions: 60 days from the issuance date of this notice, reply comments are due 105 days from the date of this notice. The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. *Description of the Project:* The project consists of the following existing facilities: (1) A dam, located about 500 feet upstream of the confluence with the Penobscot River, and consisting of a 114.5-foot-long concrete cutoff wall at the north embankment, a 6-foot-long non-overflow abutment, a 570-foot-long and about 9-foot-high concrete overflow spillway with 3-foot 9-inch-high wooden flashboards, a 85-foot-long gated spillway section with four 9-foot by 9-foot steel roller flood gates, a 20-foot-long non-overflow section containing the exit for the Denil fishway, and a 76-foot-long forebay entrance deck; (2) a 108.5-foot-long, 28.5-foot-wide, and 18-foot-high powerhouse integral with the dam; (3) three turbine generator units, for a total project installed capacity of 1,875 kilowatts (kW); (4) a 3.5-foot-wide concrete Denil fishway with wooden baffles, for upstream fish passage; (5) downstream fish passage facilities consisting of a 5-foot 9-inch-wide trash sluice gate fitted with a 3-foot 6-inch-deep bellmouth weir, and powerhouse trash racks with one-inch clear spacing; (6) a 4.7-mile-long, 270-acre project reservoir, with a normal reservoir elevation of 148.2 feet (USGS datum); (7) an outdoor substation connected by a short transmission line to the Stanford Substation in West Enfield; and (8) other appurtenances.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/esubscribenow.htm*to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must: (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application towhichthe filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

m. *Procedures schedule:* The Commission staff proposes to issue one Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA, and will take into consideration all comments received on the EA before final action is taken on the license application. If any person or organization objects to the staff proposed alternative procedure, they should file comments as stipulated in item l above, briefly explaining the basis for their objection. The application will be processed according to the following schedule, but revisions to the schedule may be made as appropriate:

Issue Notice of availability of EA December 2003.

Ready for Commission decision on the application January 2004.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20974 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Settlement Agreement and Soliciting Comments

August 12, 2003.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.
b. *Project No.:* 5334–019.
c. *Date Filed:* August 7, 2003.
d. *Applicant:* Charter Township of Ypsilanti, MI.
e. *Name of Project:* Ford Lake Hydroelectric Project.
f. *Location:* On the Huron River, Washtenaw County, within the township of Ypsilanti, Michigan. The project does not affect Federal lands.
g. *Filed Pursuant to*: Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.
h. *Applicant Contact:* Ms. Joann Brinker, Administrative Services/ Human Resources Director, Charter Township of Ypsilanti, 7200 South Huron River Driver, Ypsilanti, Mi 48197, (734) 484–0065.
i. *FERC Contact:* Monte TerHaar, (202) 502–6035 or *monte.terhaar@ferc.gov.*
j.*Deadline for Filing Comments*: The deadline for filing comments on the Settlement Agreement is 20 days from the date of this notice. The deadline for filing reply comments is 30 days from the date of this notice. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions of the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

k. Charter Township of Ypsilanti filed a partial Settlement Agreement on behalf of itself, the U.S. Department of the Interior, Fish and Wildlife Service, the Michigan Department of Natural Resources, and the Michigan Hydro Relicensing Coalition. The purpose of the Settlement Agreement is to resolve, among the signatories, issues related to the Township's pending Application for a New Major License for the Ford Lake Hydroelectric Project. The Settlement Agreement covers compliance monitoring of impoundment levels and tailrace elevations; maintenance of natural riparian habitat; and establishes an escrow account for future fish protection, fisheries habitat improvement, and, in the event of license surrender, dam decommissioning.

l. A copy of the Settlement Agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary (FERRIS) link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–21092 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI02–3–002]

AquaEnergy Group Ltd.; Notice of Combined Initial Information Meeting and Scoping Meeting, Site Visit, and Solicitation of Scoping Comments

August 8, 2003.

The Federal Energy Regulatory Commission's (Commission) regulations allow applicants to prepare their own Environmental Assessment (EA) for hydropower projects and file it with the Commission along with their license application as part of an alternative licensing procedure (ALP).[1] On July 22, 2003, the Commission noticed the request of AquaEnergy Group Ltd. (AquaEnergy) to use the ALP and set a deadline for comments of August 21, 2003. AquaEnergy wishes to hold combined Initial Information/Scoping Meetings on August 26 and 27, 2003. Because the Commission will need ample time to fully consider comments received from interested stakeholders on AquaEnergy's request to use the ALP, the Commission may not have decided on AquaEnergy's request to use the ALP prior to the combined meetings. However, the ALP allows greater flexibility than the traditional licensing process, and the Commission believes that it is in the public interest to solicit scoping comments in this notice. The Commission has not pre-judged AquaEnergy's request to use the ALP.

[1] 81 FERC ¶ 61,103 (1997).

Public Meeting and Site Visit

AquaEnergy distributed a combined Initial Information Package (IIP)/ Scoping Document 1 (SD1) for the Makah Bay Offshore Wave Energy Pilot Project on August 5, 2003, to the mailing list for this proceeding. AquaEnergy will hold combined Initial Information/Scoping Meetings on Tuesday, August 26 and Wednesday, August 27, 2003. The purposes of the meetings are to review the information presented in the IIP/SD1 and to initiate the identification of areas of interest that should be addressed in the licensing and any related Applicant-Prepared Environmental Assessment (APEA) processes. The meetings will be held as follows:

Agency Meeting

When: Tuesday, August 26, 2003, 5 p.m.–6 p.m.
Where: Makah Tribal Offices, Neah Bay, Washington.

Public Meeting

When: Tuesday, August 26, 2003, 7 p.m.—9 p.m.
Where: Makah Tribal Community Center, Neah Bay, Washington.

Public Meeting

When: Wednesday, August 27, 2003, 7 p.m.–9 p.m.
Where: Clallam County Public Utility District, 2431 Highway 101 East, Port Angeles, Washington.

AquaEnergy will also conduct a site visit to the project on Tuesday, August 26, 2003. Those wishing to attend the site visit should meet at Makah Tribal Council Offices in Neah Bay, Washington. Please RSVP Mary Jane Parks, AquaEnergy, at (626) 253–1981, if you plan to attend the site visit.

The deadline for filing comments is September 26, 2003. All documents (an original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web

site (*http://www.ferc.gov*) under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of that document on that resource agency.

Based on feedback received on the IIP/SD1 and the project site visit, AquaEnergy will prepare a Scoping Document 2 (SD2). SD2 will include a revised list of issues based on the meeting and written comments. AquaEnergy expects to issue SD2 on October 27, 2003.

All interested individuals, organizations, and agencies are invited and encouraged to attend the meetings and site visit and to assist in the identification of environmental issues that should be included in SD2.

We are asking federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the Commission's EA. Agencies who would like to request cooperating agency status should file such a request (original and eight copies) with the Secretary at the aforementioned address. Please put the docket number, DI–02–3–002, on the first page of your filing.

For further information regarding the informational and scoping meeting and project site visit or to be added to the mailing list for the project, please contact Ms. Mary Jane Parks of AquaEnergy or Nicholas Jayjack of the Commission's staff at (202) 502–6073.

A copy of the IIP/SD1 is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number (DI02–3) in the docket field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676 or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov./esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20972 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD02–1–000]

eLibrary (Federal Energy Regulatory Records Information System); Notice Announcing Renaming of Ferris to eLibrary

August 11, 2003.

On May 13, 2002, the Commission issued a Notice announcing the establishment of the Federal Energy Regulatory Records Information System, or FERRIS. This online system replaced three document management systems that were previously available at the Commission's Internet Web site: the Commission Issuance Posting System (CIPS), the Record Information Management System (RIMS), and the Docket Sheet System.

The Commission now gives notice that, effective August 11, 2003, FERRIS is renamed to eLibrary. This action coincides with the launch of the Commission's new Internet Web site today at*http://www.ferc.gov*.

The name eLibrary is in keeping with the e-Government services the Commission has planned as part of its FERC Online initiatives. *See www.ferc.gov/docs-filing/ferconline.asp*.

eLibrary will have essentially the same features as FERRIS. Over the next coming year, eLibrary will be improved to meet the needs of the Commission's customers. eLibrary users will also continue to *see* references to FERRIS. The referenced materials will be changed to eLibrary over the next couple of months.

For additional information on this topic, you may contact Ellen Brown, OED, Division of Chief Information Officer, at 202–502–8663 or *ellen.brown@ferc.gov.*; or Brooks Carter, Assistant Secretary for Information Resources, OSEC, at 202–502–8145 or *brooks.carter@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20971 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

August 12, 2003.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or prohibited off-the-record communication relevant to the merit's of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of prohibited and exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (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.

PROHIBITED

Docket No.	Date filed	Presenter or requester
1. Project No. 11175–016	7–31–03	Jessica Overmohle.

EXEMPT

Docket No.	Date filed	Presenter or requester
1. CP02–90–000	8–7–03	James Martin.
2. Project No. 2069–007	8–7–03	Leigh J. Kuwanwisiwma.

Magalie R. Salas,

Secretary.

[FR Doc. 03–21097 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Public Utility District No. 1 of Franklin County, Project No. 12116–001; Notice of Surrender of Preliminary Permit

August 8, 2003.

Take notice that Public Utility No. 1 of Franklin County, permittee for the proposed Esquatzel Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on February 7, 2002, and would have expired on January 31, 2005. The project would have been located at the termination of the Esquatzel Wasteway into the Columbia River in Franklin County, Washington.

The permittee filed the request on July 1, 2003, and the preliminary permit for Project No. 12116 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Magalie R. Salas,

Secretary.

[FR Doc. 03–20967 Filed 8–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM02–4–001, PL02–1–001]

Critical Energy Infrastructure Information; Notice of Filing Instructions

August 8, 2003.

On July 23, 2003, the Commission issued Order No. 630–A which required that persons filing information that warrants special treatment as Non-Internet Public, Critical Energy Infrastructure Information (CEII) or Privileged must separate the information into clearly marked volumes. Pursuant to the Order, the Secretary is providing instructions for the filing of documents that contain Non-Internet, CEII, or Privileged material. The filing instructions are attached to this Notice and will be posted on the Commission's Web site.

Magalie R. Salas,

Secretary.

Office of the Secretary

[Docket Nos. RM02–4–001 and PL02–1–001; Order No. 630–A]

Critical Energy Infrastructure Information (CEII); Filing Instructions for Non-Internet Public, CEII, or Privileged Material

Revised August 8, 2003.

On July 23, 2003, the Commission issued Order No. 630–A, a Final Rule on Rehearing of Order No. 630. The order requires that persons filing information that warrants special treatment as Non-Internet Public, CEII, or Privileged must separate the information into clearly marked volumes. The order also directs the Secretary of the Commission to provide instructions for submitting information in these categories. This document sets forth those instructions.

The Federal Energy Regulatory Records Information System (FERRIS) is the Commission's online document management system for all documents filed with or issued by the Commission, except those under a Protective Order. The Commission incorporates into FERRIS descriptive information about each document, and provides either full or limited access to the document depending on whether the document contains Non-Internet Public, CEII, or Privileged material.

Persons filing information that warrants special treatment as Non-Internet Public, CEII, or Privileged must organize the information as follows:

1. Separate Public, Non-Internet Public, CEII, and Privileged material into clearly-marked binders or separate sections.

2. Insert a page in the Public volume/section at each place where Non-Internet Public, CEII, or Privileged material has been removed. The page must identify the volume or section containing the removed material.

3. The first page of each volume or section (cover sheet) must include information sufficient to identify the filer, title of the submission, volume number (*e.g.*, Vol. 1 of 4) and a description of the material contained therein. Stamp or clearly mark all pages that are Non-Internet Public or CEII with the applicable designation (refer to the attached table). The cover sheet for each volume or section also must be stamped or marked accordingly.

4. Submit the following number of copies of each volume or separate section:

a. *Public:* Original + Required number of copies.

b. *Non-Internet Public:* Original + Required number of copies.

c. *CEII:* Original + two copies.

d. *Privileged:* Original only. Refer to the applicable Commission regulation for the required number of copies.

5. Do not submit documents containing Non-Internet Public, CEII, or

Privileged information through the Commission's electronic filing system. Documents with non-public or limited access should be filed on paper. The Commission is drafting alternatives for filing these documents on CD ROM in the near future.

The attached table provides information on each of the categories.

For information on filing instructions, please contact Brooks Carter, Assistant Secretary for Information Resources, at 202–502–8145 or *brooks.carter@ferc.gov.*

For more information on the final rule, please contact Carol Johnson, Attorney Advisor, at 202–502–8521 or *carol.johnson@ferc.gov.*

CRITICAL ENERGY INFRASTRUCTURE RELATED DOCUMENT CLASSES AT FERC

Document and Information Type	Marking	Treatment	Access
PUBLIC	None or 'Public	Maintained in Public Reference Room and on FERRIS..	Public has unrestricted access in the Public Commission's Public Reference Rom and on FERRIS.
NON-INTERNET PUBLIC (NIP)—Location information that does not qualify for protection as CEII, *e.g.,* (1) USGS 7.5-minutes topographic maps showing the location of pipelines, dams, or other aboveground facilities; (2) alignment sheets showing the location of pipeline and above-ground facilities, right-of-way dimensions, and extra work areas; (3) drawings showing site or project boundaries, footprints, building locations and reservoir extent; and (4) general location maps.	''Non-Internet Public''	Maintained in Public Reference Room; indexed item in FERRIS, but no Internet access to image.	Public may access through the Commission's Public Reference Room. Note: absent a waiver from the Commission, natural gas pipelines and public utilities are still required to comply with the Commission regulations that may require that NIP information be available in county public reading rooms or from companies upon request, as appropriate.
CEII (NONPUBLIC)—Information about proposed or existing critical infrastructure that: (1) is exempt from disclosure under FOIA, (2) relates to the production, generation, transportation, transmission or distribution of energy, (3) could be useful to a person planning an attack on the infrastructure, and (4) does not simply give the location of the critical infrastructure. Does not include NIP regulations detailed above.	''Contains Critical Energy Infrastructure Information—Do Not Release''.	Not available in Public Reference Room; indexed item in FERRIS, but no public access to image.	Public may file a CEII request under 18 C.F.R. § 388.113 or aFOIA request under 18 C.F.R. § 388.108. Note: absent a waiver from the Commission, natural gas pipelines and public utilities are still required to comply with the Commission regulations that may require that CEII be available in county public reading rooms or from companies upon request, as appropriate.
PRIVILEGED (OTHER NON-PUBLIC) This is usually confidential business information or cultural resource reports submitted under 18 C.F.R. § 388.112.	''Contains Privileged Information—Do Not Release''.	Not available in Public Reference Room; indexed in item FERRIS, but no public access to image..	Public may file FOIA request under 18 C.F.R. § 388.108.

[FR Doc. 03–20975 Filed 8–15–03; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Floodplain/Wetlands Statement of Findings for the Security Perimeter Project at Los Alamos National Laboratory, Los Alamos, New Mexico

AGENCY: National Nuclear Security Administration, Los Alamos Site Office, DOE.

ACTION: Notice of floodplain/wetlands statement of findings.

SUMMARY: This floodplain/wetlands statement of findings is for the construction of a single bypass road at the north end of Technical Area (TA) 3 at Los Alamos National Laboratory (LANL) in Los Alamos, New Mexico, as part of the Security Perimeter Project. This project combines the installation of access control stations at key locations around TA–3 and modification of road intersections with the construction of a bypass road to control unauthorized access to the core technical and administrative area at LANL. A wetland of less than 1,000 square feet in area would be filled during construction of the bypass road. The 100-year floodplain of Los Alamos Canyon is located on the canyon floor below the Research Park and would not be directly impacted by the project.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), NNSA had prepared a floodplain/wetlands assessment that evaluates the positive and negative, direct and indirect, and long- and short-term effects on floodplains and wetlands in and near the project area.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withers, U.S. Department of Energy, National Nuclear Security Administration, Los Alamos Site Office, 528 35th Street, Los Alamos, NM 87544. Telephone (505) 667–8690, of facsimile (505) 667–9998; or electronic address: *ewithers@doeal.gov.*

For Further Information on General DOE Floodplain Environmental Review Requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42,

Department of Energy, 100 Independence Avenue, SW., Washington, DC 20585–0119. Telephone (202) 586–4600 or (800) 472–2756, facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR part 1022, NNSA published a Notice of Floodplain and Wetlands Involvement on July 21, 2003 (68 FR 43104). This notice announced that the floodplain/wetlands assessment document was available for a 15-day review period and that copies of the document could be obtained by contacting Ms. Withers at the above address or could be viewed at two public DOE reading rooms in Los Alamos and Albuquerque, New Mexico. One comment was received from the **Federal Register** notice on the proposed floodplain action.

Project Description: As a result of the events of September 11, 2001, the nature and extent of the terrorist threat has changed significantly in terms of the potential magnitude of the attack as well as the terrorists' motivations, targets, and methods. In recognition of this increased threat, LANL management and security officials have determined that there is a critical need to upgrade the physical protection around the core LANL technical and administrative area in TA–3, which houses vital national assets, government property, and key scientific and support staff.

The selected approach combines the installation of three access control stations at key locations and modification of road intersections with the development of a single bypass road at the north end of TA–3 to accomplish the mission need described. The proposed North Bypass Road would connect East Jemez Road, Diamond Drive, and State Road 501 by detouring behind the Los Alamos Research Park and along the south rim of Los Alamos Canyon. A bridge would be used to span a small tributary canyon. There is a small wetland within the Research Park that is primarily fed by stormwater runoff from adjacent buildings and parking lots. This wetland would be directly affected by the project. Indirect impacts to the 100-year floodplain of Los Alamos Canyon would be avoided by the use of best management practices for erosion and siltation control.

Alternatives: Several alternative alignments for the North Bypass Road were considered in the design of the project in an attempt to avoid sensitive environmental resources (wetlands, archaeological sites, areas of contamination, *etc.*); however, in order to maintain a safe and secure separation from the TA–3 boundaries, the roadway was confined to the corridor between the Research Park buildings and the canyon rim where the wetland is located. Hence, destruction of the wetland was unavoidable. The No Action alternative, where the bypass road would not be constructed and no activity would be taken to disturb the Los Alamos Canyon floodplain or the Research Park wetland, was dismissed as unviable because it would not meet the National Security purpose and need for the project.

Floodplain/Wetland Impacts And Mitigation Actions: The primary direct impact of the project is the removal of the wetland for the road construction, which has been determined to be necessary for National Security purposes. No potential for loss of life or property has been identified with respect to floodplains or other wetlands in Los Alamos Canyon, as long as best management practices for soil erosion control are implemented. Possible primary direct effects of the project are a reduction in vegetation cover, exposure, and compaction of mineral soils due to excavation and heavy equipment. Possible secondary direct effects are the potential for the increase of erosion and storm water runoff from the mesa top to the floodplain below.

There are no primary indirect impacts (within the canyon) to the floodplains resulting from the project. If work conducted in the Research Park contributed to increased sediment movement, there may be some retention of those sediments by the floodplains or wetlands down canyon. Secondary indirect impacts (outside of the project area) resulting from the project would result in possible impacts to floodplains and wetlands not associated with the project area (*e.g.,* downstream to the Rio Grande).

The Security Perimeter Project does conform to applicable State or local floodplain protection standards. At a minimum, best management practices for runoff control, such as silt barriers, would be emplaced to mitigate runoff effects during the project. These best management practices would incorporate considerations of the National Pollutant Discharge Elimination System permit program and Environmental Protection Agency requirements for a Notice of Intent and a Storm Water Pollution Prevention Plan under Sections 401 and 404 of the Clean Water Act.

Issued in Los Alamos, NM, on August 8, 2003.

Ralph E. Erickson,

Manager, U.S. Department of Energy, National Nuclear Security Administration, Los Alamos Site Office.

[FR Doc. 03–21025 Filed 8–15–03; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7545–3]

Proposed CERCLA Administrative Cost Recovery Settlement; John B. Stetson Company, Inc., Former Mallory Hat Superfund Site, Danbury, CT

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement; 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), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Former Mallory Hat Superfund Site in Danbury, Connecticut with the following settling party: John B. Stetson Company, Inc. The settlement requires the settling party to pay $180,000.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214–2023.

DATE: Comments must be submitted by September 17, 2003.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02114–2023 and should refer to: In re: Rogers Fibre Mill Superfund Site, U.S. EPA Docket No. 01–2003–0005.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Mary Jane O'Donnell, U.S. Environmental Protection Agency, Region I, Office of Site Remediation & Restoration, One Congress Street, Suite 1100, Mailcode HBT, Boston, MA 02114–2023.

Dated: June 10, 2003.

Richard Cavagnero,

Acting Director, Office of Site Remediation & Restoration.

[FR Doc. 03–21056 Filed 8–15–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98–67; DA 03–2629]

Sprint Petition for Declaratory Ruling Regarding TRS Access to 900 Pay-Per-Call Services Via 711

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: Sprint Corporation (Sprint) filed a Petition for Declaratory Ruling requesting that the Commission declare that Sprint's provision of 900 pay-per-call services to end users who access Sprint's relay centers by dialing 711 fully satisfies the requirement that such services be offered by relay providers. The Commission has found that the provision of pay-per-call service through TRS is technically feasible and required as a component of functional equivalency. Additionally, the Commission requires all telecommunications carriers nationwide to implement three-digit, 711, dialing access to all mandatory TRS services. Sprint's petition contends that pay-per-call services cannot be accessed via 711, because 711 uses a toll-free dialing sequence, and pay-per-call sequences cannot be accessed using a toll-free dialing sequence. Therefore, Sprint requests clarification that its provision of a special 900 number (which is provided without charge) in order to use TRS to place a 900 call satisfies the requirement that TRS providers offer such services.

DATES: Interested parties may file comments in this proceeding on or before September 10, 2003. Reply comments may be filed on or before September 25, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Erica Myers, Consumer & Governmental Affairs Bureau, Disability Rights Office at (202) 418–2429 (voice), (202) 418–0464 (TTY), or e-mail at *Erica.Myers@fcc.gov.*

SUPPLEMENTARY INFORMATION: When filing comments, please reference CC Docket No. 98–67. 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, 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 Services 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 addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–B204, Washington, DC 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted, along with three paper copies to: Erica Myers, Consumer & Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 6–A432, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, CC Docket No. 98–67), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. 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 20554.

Pursuant to section 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 subject to disclosure. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this *Public Notice* may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0531 (voice), (202) 418–7365 (TTY). This *Public Notice* can also be downloaded in Text and ASCII formats at: *http://www.fcc.gov/cgb/dro.*

Federal Communications Commission.

Margaret M. Egler,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 03–21000 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act System of Records

AGENCY: Federal Communications Commission (FCC or Commission).

ACTION: Amendment to systems notice.

SUMMARY: Pursuant to subsection (e)(4) of the Privacy Act of 1974, as amended (5 U.S.C. 552a) the FCC is amending and republishing a systems of records notice for FCC/Central-2, ''Employee Locator System.'' The amended notice addresses comments that were submitted by the Office of Management and Budget (OMB) following the initial publication of the altered system of records notice in the **Federal Register** on March 28, 2003, 68 FR 15188. OMB comments related to the purposes for maintaining the records in the system and to the retention and disposal of the records. In addition, the FCC is deleting all but the most comprehensive authority for maintaining the records in this system of records.

DATES: The amended system of records shall become effective on August 18, 2003. As required by subsection (r) of the *Privacy Act,* the FCC has submitted reports on this amended system of records to OMB and both Houses of Congress.

ADDRESSES: For further information, contact Les Smith, Performance Evaluation and Records Management (PERM), Room 1–A804, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov*; or Michele Sutton, Director of Human Resources, Room 1–A100, Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554, (202) 418–0137 or via the Internet at *Michele.Sutton@fcc.gov*.

SUPPLEMENTARY INFORMATION: As required by the *Privacy Act*, this document sets forth notice of the amendment of a system of records maintained by the FCC in response to comments received following the altered system's initial publication in the **Federal Register** on March 28, 2003, 68 FR 15188. This notice provides more detailed information about this amended system of records. The system of records may be viewed at the location given in the **ADDRESSES** section above. The purposes for amending FCC/Central-2, ''Employee Locator System'' are to modify the authority under which this system is maintained; to add to the purposes for which the system is being maintained; and to clarify the retention and disposal procedure.

The FCC will achieve these purposes by amending this system of records, FCC/Central-2, ''Employee Locator System,'' as follows:

Revise the authority under which this system is maintained, to reflect the FCC's determination that 44 U.S.C. 3101 is a more appropriate authority under which the FCC may maintain the records in this system of records;

Add to the purposes for which the records will be used, as suggested by OMB, to allow the FCC to contact an employee at home, or other designated location, to notify him/her when an emergency requires that he/she report/not report for duty; and

Clarify, consistent with OMB comment, that no records will be disposed of until FCC requests and receives records disposition authority from the National Archives and Records Administration (NARA). Upon approval of a records disposition request by NARA, the FCC will publish an amendment of this system of records notice in the **Federal Register**. In the interim, when an employee leaves the Commission, the FCC's Human Resources Management activity (AMD–HRM) will request NARA's approval to electronically erase the employee's records from the database.

The Human Resources Management activity (AMD–HRM) will use the records in FCC/Central-2, ''Employee Locator System,'' (1) to identify the individual(s) to contact, should an emergency of a medical or other nature involving the Commission employee occur while the employee is on the job; and (2) to contact the employee at home or other location regarding work-related emergencies that require him/her to report/not report for duty. Initial collection and requested periodic updates of information in the system are voluntary.

FCC/Central-2

SYSTEM NAME:

Employee Locator System.

SECURITY CLASSIFICATION:

This system of records has not been given a security classification.

SYSTEM LOCATION:

Human Resources Management (AMD–HRM), Room 1–A100, Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554 and 1270 Fairfield Road, Gettysburg, Pennsylvania 17325.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of the Federal Communications Commission (FCC).

CATEGORIES OF RECORDS IN THE SYSTEM:

1.The FCC employee's name, Bureau/Office, floor, room number, work and home telephone numbers; and

2. The name(s), e-mail address(es), and telephone number(s) of the individual(s) to contact in the event of a medical or other emergency involving the FCC employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101.

PURPOSE(S):

The records in this system serve:

1. To identify the individual(s) to contact, should an emergency of a medical or other nature involving the Commission employee occur while the employee is on the job; and

2. To allow the FCC to contact an employee at home, or other designated location, to notify him/her when an emergency requires that he/she report/not report for duty Initial collection and requested periodic updates of information in the system are voluntary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record on an individual in this system of records may be disclosed to emergency medical personnel, *i.e.*, doctors, nurses, and/or paramedics, or to law enforcement officials in case of a medical or other emergency involving the FCC employee.

In each of these cases, the FCC will determine whether disclosure of the record is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

The records are not disclosed to consumer reporting agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Electronic records are maintained in a network computer database.

RETRIEVABILITY:

Records are retrieved by the employee's name, Bureau/Office, floor, and room number.

SAFEGUARDS:

Electronic records are maintained in a network computer database, which is secured through controlled access and passwords restricted to the employee, Human Resources Management (AMD–HRM) employees, administrative personnel, and emergency relocation site employees.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is a current employee of the Federal Communications Commission. The FCC will submit a request for records disposition authority to the National Archives and Records Administration's (NARA). Upon approval by NARA, the FCC will publish an amendment of this system of records notice in the **Federal Register**. In the interim, when an employee leaves the Commission, the Human Resources Management activity (AMD–HRM) will request NARA's approval to electronically remove the employee's records from the database.

SYSTEM MANAGER(S) AND ADDRESS:

Human Resources Management (AMD–HRM), Room 1–A100, Federal Communications Commission's (FCC), 445 12th Street, SW., Washington, DC 20554 and 1270 Fairfield Road, Gettysburg, Pennsylvania 17325.

NOTIFICATION PROCEDURE:

FCC employees wishing to inquire whether this system contains information about them should contact the Human Resources Management (AMD–HRM), Room 1–A100, Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554 and 1270 Fairfield Road, Gettysburg, Pennsylvania 17325.

Individuals must supply their full name in order for records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–20536 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2620]

Petitions for Reconsideration and Clarification of Action in Rulemaking Procedures

August 7, 2003.

Petitions for Reconsideration and Clarification have been filed in the Commission's Rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445, 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by September 2, 2003. *See* section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Schools and Libraries Universal Service Support Mechanism (CC Docket No. 02–6).

Number of Petitions Filed: 2.

Subject: In the Matter of the 4.9 GHz Band Transferred from Federal Government Use (WT Docket No. 00–32).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–21001 Filed 8–15–03; 8:45 am]

BILLING CODE 6712–01–M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Sunshine Act Meeting: Annual Meeting of the Trustees and Officers Of the Harry S. Truman Scholarship Foundation

TIME AND DATE: 11 a.m. to 12:15 p.m., September 3, 2003.

PLACE: U.S. Capitol, Room HC–7.

STATUS: This meeting is open to the public.

MATTERS TO BE CONSIDERED:

1. Call to Order.
2. Welcome and Introductions.
3. Approval of the Minutes of the 2002 Annual Meeting.
4. Comments from President Albright: Priorities, Work Plan and Schedule for 2003.
5. Report from Executive Secretary: 2003 Selection Process; Financial Report.
6. Report on Truman Scholars Forum, March 22.
7. Old Business.
8. New Business.
9. Adjournment.

FOR FURTHER INFORMATION CONTACT: Louis H. Blair, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006, (202) 395–4831, *office@truman.gov.*

Louis H. Blair,

Executive Secretary.

[FR Doc. 03–21171 Filed 8–15–03; 11:54 am]

BILLING CODE 6820–AD–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Computer Matching Program (Match No. 2002–02)

AGENCY: Department of Health and Human Services (HHS), Center for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration).

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice establishes a computer matching agreement between CMS and the Department of Defense (DoD). We have provided background information about the proposed matching program in the ''Supplementary Information'' section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed matching program, CMS invites comments on all portions of this notice. *See* **DATES** section below for comment period.

DATES: CMS filed a report of the Computer Matching Program with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 1, 2003. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Privacy Compliance Data Development

(DPCDD), Enterprise Databases Group, Office of Information Services, CMS, Mail stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Walter Stone, Senior Paralegal Specialist, Division of Data Liaison and Distribution, Enterprise Databases Group, Office of Information Services, CMS, Mail stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–5357, or facsimile (410) 786–5636.

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 100–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records (SOR) are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. CMS Computer Matches Subject to the Privacy Act and/or Privacy Rule

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended, and the Health Insurance Portability and Accountability Act (45 CFR parts 160 and 164, 65 FR 82462 (12–28–00), subparts A and E.

Dated: August 1, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Computer Match No. 2002–02

Name:

''Verification of CHAMPUS/TRICARE Eligibility for Military Health System Beneficiaries Who are Medicare Eligible and Under the Age of 65.''

Security Classification:

Level Three Privacy Act Sensitive

Participating Agencies:

The Centers for Medicare & Medicaid Services (CMS); and Department of Defense (DoD), Manpower Data Center (DMDC), Defense Enrollment and Eligibility Reporting System Office (DEERS), and the Office of the Assistant Secretary of Defense (Health Affairs)/ TRICARE Management Activity (TMA).

Authority for Conducting Matching Program:

This agreement implements the information matching provisions of the National Defense Authorization Acts (NDAA) for Fiscal Years (FY) 1992 and 1993 (PL 102–190) § 704, which provide for reinstatement of CHAMPUS as second payer for beneficiaries entitled to Medicare on the basis of disability/ ESRD *only if they also enroll in Part B*, and the 1996 NDAA (Public Law 104–106) § 732, which amended § 1086(d) of title 10, U.S.C., and directed the administering Secretaries to develop a mechanism for notifying beneficiaries of their ineligibility for CHAMPUS when loss of eligibility is due to disability status.

Purpose(s) of the Matching Program:

The purpose of this agreement is to establish the conditions, safeguards and procedures under which CMS will disclose Medicare enrollment information to the DoD. This disclosure will provide TMA with the information necessary to determine if an individual is eligible to receive extended TRICARE coverage.

Current law requires TMA to discontinue military health care benefits to disabled individuals when they become eligible for Medicare Part A because of disability or End Stage Renal Disease (ESRD), unless they are enrolled in Medicare Part B. In order for TMA to meet these requirements, CMS agrees to disclose Part A and Part B enrollment data on this dual eligible population, which will be used to determine a beneficiary's eligibility for continued care under TRICARE. DMDC/DEERS will receive the results of the computer match and provide the information to TMA for use in its program.

Categories of Records and Individuals Covered by the Match:

DEERS will furnish CMS with an electronic file on a monthly basis extracted from DEERS' system of records identified as S322.50, entitled ''Defense Eligibility Records (DER),'' containing social security numbers (SSN) for all DoD eligible beneficiaries under the age of 65 who may also be eligible for Medicare benefits. CMS will match the DEERS file against its ''Enrollment Database'' system of records (formerly known as the Health Insurance Master Record), System No. 09–70–0502, and will validate the identification of the beneficiary and provide the Health Insurance Claims Number (HICN) that matches against the SSN and date of birth provided by DEERS, and also provide the Medicare Part A entitlement status and Part B enrollment status of the beneficiary. CMS's data will help TMA to determine a beneficiary's eligibility for continued care under TRICARE. DEERS will receive the results of the computer match and provide the information provided to TMA for use in its program.

Inclusive Dates of the Match:

The Matching Program shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, which ever is later. The matching program will continue for 18 months from the effective date and may be renewed every 12 months thereafter, as long as the statutory language for the match exists and other conditions are met.

[FR Doc. 03–20777 Filed 8–15–03; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0335]

Eli Lilly and Co. et al.; Withdrawal of Approval of 80 New Drug Applications and 75 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 80 new drug applications (NDAs) and 75 abbreviated new drug applications (ANDAs). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: September 17, 2003

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

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their requests, waived their opportunity for a hearing.

Application No.	Drug	Applicant
NDA 0–159	Sulfapyridine Tablets.	Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285.
NDA 0–734	Histamine Phosphate Injection.	Do.
NDA 5–970	Sotradecol (sodium tetradecyl sulfate) Injection.	Wyeth Pharmaceuticals, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 7–898	Benemid (probenecid) Tablets.	Merck & Co., Inc., Sunneytown Pike, P.O. Box 4, BLA–20, West Point, PA 19486.
NDA 8–048	Xylocaine (lidocaine) Ointment.	AstraZeneca Pharmaceuticals LP, 1800 Concord Pike, P.O. Box 8355, Wilmington, DE 19803–8355.
NDA 8–228	Hydrocortone (hydrocortisone acetate) Acetate Injectable Suspension.	Merck & Co., Inc.
NDA 8–565	Thiosulfil (sulfamethizole) Tablets and Suspension.	Wyeth Pharmaceuticals.
NDA 9–489	Pathilon (tridehixethyl) Tablets.	Lederle Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 10–210	Metymid Ophthalmic (prednisolone acetate and sulfacetamide sodium).	Schering Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.
NDA 10–220	Hypaque-M 75% and 90% Hypague Compound (diatrizoate meglumine and diatrizoate sodium) Injection.	Amersham Health, 101 Carnegie Center, Princeton, NJ 08540-6231.
NDA 10–348	Sparine (promazine hydrochloride (HCl)) Tablets.	Wyeth Pharmaceuticals.
NDA 10–496	Xylocaine-MPF 5% Solution With Glucose 7.5% (lidocaine HCl and dextrose).	AstraZeneca Pharmaceuticals LP.
NDA 10–562	Hydeltra-T.B.A. (prednisolone tebutate).	Merck & Co., Inc.
NDA 10–753	Estradurin (polyestradiol phosphate) Injection.	Wyeth Pharmaceuticals.
NDA 10–942	Sparine (promazine HCl) Syrup and Concentrate.	Do.
NDA 11–338	Fluothane Inhalation (halothane USP).	Do.
NDA 11–418	Dimetane Ten Injectable (brompheniramine maleate).	Do.
NDA 11–673	Tepanil (diethylpropion HC1) Tablets.	3M Pharmaceuticals, 3M Center, Bldg. 270–3A–01, St. Paul, MN 55144–1000.
NDA 11–958	Hydropres (reserpine and hydrochlorothiazide).	Merck & Co., Inc.
NDA 12–383	ColBenemid (probenecid and colchicine) Tablets.	Do.
NDA 12–418	Akineton (biperiden lactate) Injection.	Abbott Laboratories, 200 Abbott Park Rd., Abbott Park, IL 60064–6157.
NDA 12–489	Exna (benzthiazide) Tablets.	Wyeth Pharmaceuticals.

Application No.	Drug	Applicant
NDA 12–731	Decaspray (dexamethasone) Topical Aerosol.	Merck & Co., Inc.
NDA 12–882	Isordil Tembids (isosorbide dinitrate) Controlled-Release Tablets and Capsules.	Wyeth Pharmaceuticals.
NDA 12–947	Artane (trihexyphenidyl HCl) Sustained-Release Capsules.	Lederle Laboratories.
NDA 13–264	Hydromox (quinethazone) Tablets.	Wyeth Pharmaceuticals.
NDA 13–334	Decadron With Xylocaine Injection (dexamethasone sodium phosphate and lidocaine HCl).	Merck & Co., Inc.
NDA 13–378	Dymelor (acetohexamide) Tablets.	Eli Lilly and Co.
NDA 13–731	Bilopaque (tyropanoate sodium) Capsules.	Amersham Health.
NDA 14–763	Citanest Plain (prilocaine HCl) and Citanest Forte (prilocaine HCl and epinephrine) Injection.	AstraZeneca Pharmaceuticals LP.
NDA 15–052	Atabrine (quinacrine HCl) Injection.	Abbott Laboratories.
NDA 15–921	Haldol (haloperidol) Tablets.	Ortho-McNeil Pharmaceutical, Inc., c/o Johnson & Johnson Pharmaceutical Research & Development, L.L.C., 1125 Trenton-Harbourton Rd., Titusville, NJ 08560–0200.
NDA 15–922	Haldol (haloperidol lactate) Oral Concentrate.	Do.
NDA 16–192	Sorbitrate (isosorbide dinitrate) Oral 5 milligram (mg) and 10 mg Tablets.	AstraZeneca Pharmaceuticals LP.
NDA 16–675	Decadron LA (dexamethasone acetate) Sterile Suspension.	Merck & Co., Inc.
NDA 16–776	Sorbitrate (isosorbide dinitrate) Chewable Tablets.	AstraZeneca Pharmaceuticals LP.
NDA 17–048	Peptavlon (pentagastrin) for Subcutaneous Injection.	Wyeth Pharmaceuticals.
NDA 17–406	Dicopac Kit.	Amersham Health.
NDA 17–503	Combipres (clonidine HCl and chlorthalidone) Tablets.	Boehringer Ingelheim Pharmaceuticals, Inc., 900 Ridgebury Rd., P.O. Box 368, Ridgefield, CT 06877–0368.
NDA 17–638	Thypinone (protirelin) Injection.	Abbott Laboratories.
NDA 17–653	Technetium Tc-99m HEDSPA Multidose Kit.	Amersham Health.
NDA 17–691	Diprosone (betamethasone dipropionate) Ointment, 0.05%.	Schering Corp.
NDA 17–751	Duranest (etidocaine HCl) Injection.	AstraZeneca Pharmaceuticals LP.
NDA 17–775	Technetium Tc-99m HSA Kit.	Medi-Physics, Inc., d.b.a., Nycomed Amersham Imaging, 101 Carnegie Center, Princeton, NJ 08540–6231.
NDA 17–784	Technetium Tc-99m TSC Kit.	Amersham Health.
NDA 17–980	Mazanor (mazindol) Tablets.	Wyeth Pharmaceuticals.
NDA 17–982	Amipaque (metrizamide) Injection.	Amersham Health.
NDA 17–992	Crescormon (somatropin, pituitary).	Genentech, Inc., 1 DNA Way, MS#48, South San Francisco, CA 94080–4990.
NDA 18–021	Asendin (amoxapine) 25 mg, 50 mg, 100 mg, and 150 mg Tablets.	Wyeth Pharmaceuticals.

Application No.	Drug	Applicant
NDA 18–153	Beclovent (beclomethasone dipropionate) Inhalation Aerosol.	GlaxoSmithKline, Five Moore Dr., Research Triangle Park, NC 27709.
NDA 18–280	Yutopar (ritodrine HCl) Tablets and Injection.	Solvay Pharmaceuticals, Inc., 901 Sawyer Rd., Marietta, GA 30062.
NDA 18–290	Secretin-Ferring Powder for Injection.	Ferring Pharmaceuticals, Inc., 120 White Plains Rd., Suite 400, Tarrytown, NY 10591.
NDA 18–381	Regular Purified Pork Insulin.	Novo Nordisk Pharmaceuticals, Inc., 100 College Rd. West, Princeton, NJ 08540.
NDA 18–383	Lente Purified Pork Insulin Zinc Supension.	Do.
NDA 18–450	Nitropress (sodium nitroprusside) Injection.	Abbott Laboratories.
NDA 18–623	NPH Purified Pork Isophane Insulin Suspension.	Novo Nordisk Pharmaceuticals, Inc.
NDA 19–112	Ventolin (albuterol sulfate) Tablets.	GlaxoSmithKline.
NDA 19–269	Ventolin (albuterol sulfate) Inhalation Solution, 0.5%.	Do.
NDA 19–280	Cyklokapron (tranexamic acid) Tablets.	Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199.
NDA 19–489	Ventolin (albuterol sulfate) Rotacaps Inhalation Powder.	GlaxoSmithKline.
NDA 19–536	Inderal (propranolol HCl) Oral Suspension.	Wyeth Pharmaceuticals.
NDA 19–773	Ventolin (albuterol sulfate) Nebules Inhalation Solution, 0.083%.	GlaxoSmithKline.
NDA 19–836	Supprelin (histrelin acetate) Injection.	Shire Pharmaceutical Development, Inc., 1801 Research Blvd., Suite 600, Rockville, MD 20850.
NDA 20–063	Technetium Tc-99m Red Blood Cell Kit.	Cadema Corp., c/o Number One Corporation, 50 Washington St., Norwalk, CT 06854.
NDA 20–924	Cernevit-12 Multivitamins.	Baxter Healthcare Corp., Route 120 and Wilson Rd., RLT–10, Round Lake, IL 60073–0490.
NDA 21–384	Duranest (etidocaine HCl and epinephrine bitartrate) Injection.	Dentsply Pharmaceutical, 3427 Concord Rd., York, PA 17402.
NDA 50–202	Chloromycetin Hydrocortisone Ophthalmic (chloramphenicol and hydrocortisone acetate for ophthalmic suspension USP).	Parkdale Pharmaceuticals, Inc., 501 Fifth St., Bristol, TN 37620.
NDA 50–251	Aureomycin (chlortetracycline HCl) Capsules.	Wyeth Pharmaceuticals.
NDA 50–257	Declomycin (demeclocycline HCl) Syrup Drops.	Do.
NDA 50–263	Achromycin V (tetracycline HCl) Suspension and Drops.	Do.
NDA 50–264	Achromycin (tetracycline HCl).	Do.
NDA 50–315	Minocin (minocycline HCl) Capsules.	Do.
NDA 50–451	Minocin (minocycline HCl) Tablets.	Do.
NDA 50–483	Nebcin (tobramycin sulfate) Sensitivity Disk.	Eli Lilly and Co.
NDA 50–484	Cerubidine (daunorubicin HCl) Injection.	Wyeth Pharmaceuticals.
NDA 50–493	Topicycline (tetracycline HCl) Solution.	Shire Pharmaceutical Development, Inc.

Application No.	Drug	Applicant
NDA 50–508	Cyclapen-W (cyclacillin) Oral Suspension.	Wyeth Pharmaceuticals.
NDA 50–509	Cyclapen-W (cyclacillin) Tablets.	Do.
NDA 50–544	Netromycin (netilmicin sulfate) Injection.	Schering Corp.
NDA 50–633	Cefpiramide Sodium Injection.	Wyeth Pharmaceuticals.
ANDA 60–007	Pen-Vee K for Oral Solution (penicillin V potassium for oral solution), 125 mg (base)/5 milliliters (mL) and 250 mg (base)/5 mL.	Do.
ANDA 60–462	Garamycin (gentamicin sulfate) Cream, 0.1%.	Schering Corp.
ANDA 61–151	Nilstat (nystatin) tablets USP) Oral Tablets, 500,000 units.	Lederle Laboratories.
ANDA 61–325	Nilstat (nystatin) Vaginal Tablets, 100,000 units.	Do.
ANDA 61–444	Nilstat (nystatin) Ointment, 100,000 units/gram (g).	Do.
ANDA 61–445	Nilstat (nystatin) Cream, 100,000/g.	Do.
ANDA 61–633	Robimycin (erythromycin) Robitabs, 250 mg.	A.H. Robins Co., P.O. Box 8299, Philadelphia, PA 19101–8299.
ANDA 61–734	Robitet (tetracycline HCl capsules USP) Robicaps, 250 mg and 500 mg.	Wyeth Pharmaceuticals.
ANDA 62–120	Wymox (amoxicillin) Capsules, 250 mg and 500 mg.	Do.
ANDA 62–302	Otobiotic (polymyxin B sulfate and hydrocortisone otic solution USP) Sterile Otic Solution.	Schering Corp.
ANDA 62–579	Precef (ceforanide) for Injection.	Apothecon, c/o Bristol-Myers Squibb Co., P.O. Box 4500, Princeton, NJ 08543–4500.
ANDA 62–821	Cephalexin Capsules USP, 250 mg.	TEVA Pharmaceutical USA, 1090 Horsham Rd., P.O. Box 1090, North Wales, PA 19454.
ANDA 62–823	Cephalexin Capsules USP, 500 mg.	TEVA Pharmaceutical USA.
ANDA 62–860	Ampicillin for Injection.	Apothecon.
ANDA 62–867	Cephalexin for Oral Suspension USP, 250 mg/5mL.	TEVA Pharmaceutical USA.
ANDA 62–873	Cephalexin for Oral Suspension USP, 125 mg/5mL.	Do.
ANDA 62–961	Cefadyl (cephapirin) for Injection.	Apothecon.
ANDA 63–120	Tobramycin Sulfate Injection USP, 2 mL vial, 40 mg/mL.	AstraZeneca LP.
ANDA 63–122	Tobramycin Sulfate Injection USP, 40 mg/mL.	Do.
ANDA 64–131	Trimox (amoxicillin tablets USP), Tablets, 125 mg and 250 mg.	Apothecon.
ANDA 70–128	Propranolol HCl Tablets USP, 80 mg.	ESI Lederle, c/o Lederle Laboratories, 401 North Middletown Rd., Pearl River, NY 10965–1299.
ANDA 70–318	Haloperidol Oral Solution USP (Concentrate), 2 mg/mL.	Alpharma, U.S. Pharmaceuticals Division, 200 Elmora Ave., Elizabeth, NJ 07207.
ANDA 70–757	Propranolol HCl Tablets USP, 80 mg.	Purepac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207.

Application No.	Drug	Applicant
ANDA 70–814	Propranolol HCl Tablets USP, 10 mg.	Do.
ANDA 70–815	Propranolol HCl Tablets USP, 20 mg.	Do.
ANDA 70–816	Propranolol HCl Tablets USP, 40 mg.	Do.
ANDA 70–817	Propranolol HCl Tablets USP, 60 mg.	Do.
ANDA 71–495	Propranolol HCl Tablets USP, 60 mg.	ESI Lederle.
ANDA 71–496	Propranolol HCl Tablets USP, 90 mg.	Do.
ANDA 71–673	Doxepin HCl Capsules USP, 50 mg.	Do.
ANDA 71–674	Doxepin HCl Capsules USP, 75 mg.	Do.
ANDA 71–675	Doxepin HCl Capsules USP, 100 mg.	Do.
ANDA 71–676	Doxepin HCl Capsules USP, 150 mg.	Do.
ANDA 71–685	Doxepin HCl Capsules USP, 10 mg.	Do.
ANDA 71–686	Doxepin HCl Capsules USP, 25 mg.	Do.
ANDA 72–026	Fentanyl Citrate and Droperidol Injection.	AstraZeneca LP.
ANDA 72–687	Foamicon (alumina and magnesium trisilicate tablets USP), 80 mg and 20 mg.	Novartis Consumer Health, Inc., 200 Kimball Dr., Parsippany, NJ 07054–0622.
ANDA 73–080	Loperamide HCl Capsules USP, 2mg.	Roxane Laboratoires, Inc., P.O. Box 16532, Columbis, OH 43216.
ANDA 73–403	Questran (cholestyramine) Tablets, 800 mg and 1,000 mg.	Bristol-Myers Squibb Co.
ANDA 73–440	Desoximetasone Ointment USP, 0.25%.	Altana, Inc., 60 Baylis Rd., Melville, NY 11747.
ANDA 73–494	Thiothixene HCl Intensol Oral Solution (Concentrate), 5 mg/mL.	Roxane Laboratories, Inc.
ANDA 74–036	Piroxicam Capsules USP, 10 mg and 20 mg.	SCS Pharmaceuticals, Box 5110, Chicago, IL 60680–9889.
ANDA 74–734	Iopamidol Injection USP, 61% and 76%.	Faulding Pharmaceuticals, Mack-Cali Centre 11, 650 From Rd., Paramus, NJ 07652.
ANDA 75–100	Bromocriptine Mesylate Capsules USP, 5 mg.	Lek, Pharmaceutical and Chemical Co. d.d., c/o Lek Services, Inc., 115 North Third St., Suite 301, Wilmington, NC 28401.
ANDA 75–223	Labetalol HCl Tablets USP, 100 mg, 200 mg, and 300 mg.	Apothecon.
ANDA 80–081	Sulfadiazine Tablets USP, 500 mg.	Impax Laboratories, Inc., 30831 Huntwood Ave., Hayward, CA 94544.
ANDA 80–254	Testosterone Propionate Injection USP, 50 mg/mL.	Eli Lilly and Co.
ANDA 80–686	Folic Acid Tablets USP, 1 mg.	Impax Laboratories, Inc.
ANDA 80–781	Hydrocortisone Tablets USP, 20 mg.	Do.
ANDA 80–785	Tripelennamine HCl Tablets USP, 50 mg.	Do.
ANDA 80–853	Betalin-S (thiamine HCl injection USP), 100 mg/mL.	Eli Lilly and Co.
ANDA 83–209	Estratab Tablets (esterified estrogens tablets USP) 0.625 mg.	Solvay Pharmaceuticals, Inc.
ANDA 83–488	Estrogenic Substance (sterile estrone suspension USP) for Injection.	Wyeth Pharmaceuticals.

Application No.	Drug	Applicant
ANDA 83–607	Hydrochlorothiazide Tablets USP.	Impax Laboratories, Inc.
ANDA 83–720	Probenecid and Colchicine Tablets USP, 500 mg/0.5 mg.	Do.
ANDA 83–789	Furacin (nitrofurazone) Topical Cream.	Shire Pharmaceutical Development, Inc.
ANDA 83–967	Trichlormethiazide Tablets USP, 4 mg.	Impax Laboratories, Inc.
ANDA 84–029	Hydrochlorothiazide Tablets USP, 25 mg.	Do.
ANDA 84–444	Phenaphen with Codeine (acetaminophen and codeine phosphate capsules USP), No. 2 Capsules, 325 mg/15 mg.	A.H. Robins Co.
ANDA 84–541	Propantheline Bromide Tablets USP, 15 mg.	Impax Laboratories, Inc.
ANDA 85–057	Tylenol With Codeine (acetaminophen and codeine phosphate oral solution USP) Elixir, 120 mg/12 mg.	Ortho-McNeil Pharmaceuticals, Inc., c/o Johnson & Johnson Pharmaceutical Research and Development, L.L.C., 920 Route 202 South, P.O. Box 300, Raritan, NJ 08869–0602.
ANDA 85–856	Phenaphen-650 With Codeine (acetaminophen and codeine phosphate tablets USP) Tablets, 650 mg/30 mg.	A.H. Robbins Co.
ANDA 86–405	Sorbitrate (isosorbide dinitrate tablets USP), 20 mg.	AstraZeneca Pharmaceuticals LP.
ANDA 86–530	Seconal (secobarbital sodium) Suppositories.	Eli Lilly and Co.
ANDA 86–683	Acetaminophen and Codeine Phosphate Tablets USP, 300 mg/60 mg.	Purpac Pharmaceutical Co.
ANDA 86–715	Estratab Tablets (esterified estrogens tablets USP), 0.3 mg.	Solvay Pharmaceuticals.
ANDA 87–158	Fluonid (fluocinolone acetonide) Solution, 0.01%.	Allergan, 2525 Dupont Dr., P.O. Box 19534, Irvine, GA 92623–9534.
ANDA 87–847	Atropine and Demerol (atropine sulfate and meperidine HCl) Injection, 0.4 mg/75 mg/mL.	Abbott Laboratories.
ANDA 87–848	Atropine and Demerol (atropine sulfate and meperidine HCl) Injection, 0.4 mg/100 mg/mL.	Do.
ANDA 87–853	Atropine and Demerol (atropine sulfate and meperidine HCl) Injection, 0.4 mg/50 mg/mL.	Do.
ANDA 87–864	Triple Sulfa Vaginal Cream (sulfathiazole, sulfacetamide, and sufabenzamide).	Alpharma.
ANDA 88–125	Sorbitrate (isosorbide dinitrate tablets USP), 40 mg.	AstraZeneca Pharmaceuticals, LP.
ANDA 88–343	Bromanyl (bromodiphenhydramine HCl and codeine phosphate) Cough Syrup, 12.5 mg/5 mL and 10 mg/5 mL).	Alpharma.
ANDA 89–561	Chlorpropamide Tablets USP, 100 mg.	Lederle Laboratories.
ANDA 89–562	Chlorpropamide Tablets USP, 250 mg.	Do.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective September 17, 2003

Dated: July 18, 2003.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 03–20949 Filed 8–15–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0294]

Anesthetic and Life Support Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Anesthetic and Life Support Drugs Advisory Committee. This meeting was announced in the **Federal Register** of July 31, 2003 (68 FR 44955). The amendment is being made to reflect a change in the *Agenda* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Johanna M. Clifford, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12529. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 31, 2003, FDA announced that a meeting of the Anesthetic and Life Support Drugs Advisory Committee would be held on September 9 and 10, 2003. On page 44956, in the first column, the *Agenda* portion of the meeting is amended to read as follows:

Agenda: On September 10, 2003, the committee will discuss the abuse liability of and Risk Management Plans for Palladone (Hydromorphone Hydrochloride) Purdue Pharma, LP, a modified-release hydromorphone drug product indicated for the treatment of moderate to severe pain in opioid tolerant patients.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: August 12, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–20951 Filed 8–15–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dermatologic and Ophthalmic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Dermatologic and Ophthalmic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 9 and 10, 2003, from 8 a.m. to 5:30 p.m.

Location: Holiday Inn, The Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Kimberly Littleton Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12534. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 9, 2003, the committee will discuss the efficacy and safety of submission tracking number biologics licensing application 125075/0, Efalizumab (Raptiva) by Genentech, Inc., to be used in the treatment of adult patients with moderate to severe plaque psoriasis. On September 10, 2003, the committee will discuss new drug application (NDA) 21–576, Methyl Aminolevulinate Hydrochloride (methyl aminolevulinate cream, 168 milligram/gram) by PhotoCure ASA, for treatment of basal cell carcinoma.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 1, 2003. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on both days. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 3, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kimberly Littleton Topper at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 12, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–20952 Filed 8–15–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0349]

Draft Guidance for Reviewers: Instructions and Template for Chemistry, Manufacturing, and Control Reviewers of Human Somatic Cell Therapy Investigational New Drug Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Reviewers: Instructions and Template for Chemistry,

Manufacturing, and Control (CMC) Reviewers of Human Somatic Cell Therapy Investigational New Drug Applications (INDs)'' dated August 2003. The draft guidance document, when finalized, will provide instructions to CMC reviewers of human somatic cell therapies on what information should be recorded and assessed as part of their review of an original IND. The draft guidance document, when finalized, will also provide CMC reviewers the format in the corresponding human somatic cellular therapy CMC template to prepare their reviews.

DATES: Submit written or electronic comments on the draft guidance by November 17, 2003, to ensure their adequate consideration in preparation of the final document. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance 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: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Reviewers: Instructions and Template for Chemistry, Manufacturing, and Control (CMC) Reviewers of Human Somatic Cell Therapy Investigational New Drug Applications (INDs)'' dated August 2003. The draft guidance document provides instructions and a template that are intended to be tools to assist CMC reviewers of human somatic cell therapy INDs. The draft guidance document is intended to help ensure that all applicable regulatory requirements are reviewed for the appropriate stage of product development.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will provide instructions to CMC reviewers of human somatic cell therapies on what information should be recorded and assessed as part of their review of an original IND. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft guidance. Submit written or electronic comments to ensure adequate consideration in preparation of the final guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm.*

Dated: August 7, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–20950 Filed 8–15–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[Announcement Number: HRSA–03–110]

Maternal and Child Health Federal Set-Aside Program; Special Projects of Regional and National Significance; State Oral Health Collaborative Systems (SOHCS) Grant Program (CFDA #93.110)

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that approximately $2,950,000 in fiscal year (FY) 2003 funds is available to fund up to 59 one-year grants to support States' efforts to develop, implement or otherwise strengthen State oral health collaborative strategies that increase access to oral health services for Medicaid and State Children's Health Insurance Program (SCHIP) eligible children, and other underserved children and their families. Eligibility is open to MCH agencies in the 50 States and nine specified jurisdictions, unless another governmental or non-governmental agency is approved. Awards will be made under the program authority of section 501(a)(2) of the Social Security Act, the Maternal and Child Health (MCH) Federal Set-Aside Program (42 U.S.C. 701(a)(2)), *i.e.,* Special Projects of Regional and National Significance (SPRANS). Funds for these awards were appropriated under Pub. L. 108–07, the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2003.'' Up to $50,000 in FY 2003 funds is available for each one-year grant; up to an additional $50,000 in FY 2003 funds may become available for the grant during the course of the same one-year project period, depending upon the availability of funds.

DATES: The deadline for receipt of applications is August 25, 2003. *Applicants are required to submit one ink-signed original and two copies of the completed application.* The projected award date will be prior to September 30, 2003.

ADDRESSES: To receive a complete application kit, applicants may telephone the HRSA Grants Application Center at 1–877–477–2123 (1–877–HRSA–123) beginning July 25, 2003, or register on-line at: *http://www.hrsa.*

gov/, or by accessing *http://www.hrsa.gov/g_order3.htm* directly. This program uses the standard Form PHS 5161–1 (rev. 7/00) for applications (approved under OMB No. 0920–0428). Applicants must use the appropriate Catalog of Federal Domestic Assistance (CFDA) number 93.110 and the title, ''State Oral Health Collaborative Systems Program,'' when requesting application materials. The CFDA is a Government-wide compendium of enumerated Federal programs, projects, services, and activities that provide assistance. Unless submitted on-line (*see* next paragraph), all applications should be mailed or delivered to: Grants Management Officer (MCHB), HRSA Grants Application Center (GAC), 901 Russell Avenue, Suite 450, Gaithersburg MD, telephone: 1–877–HRSA–123 (477–2123), e-mail: *hrsagac@hrsa.gov*. Notice of receipt of applications will be sent by the GAC.

Applicants should note that HRSA anticipates accepting grant applications online in the last quarter of the Fiscal Year (July through September). Please refer to the HRSA grants schedule at *http://www.hrsa.gov/grants.htm* for more information. The automated application process should be faster, easier and better for applicants and for HRSA. We encourage you to take advantage of this new option. Applicants will be notified through the same channels that currently announce the availability of downloadable and paper application materials, including notices on HRSA Web sites and e-mail communications. Once the automated system is in place, applications can be submitted on-line and applicants will receive an electronic confirmation of the submission. Applicants will need to print the face page, sign it, and submit it to the HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, MD 20879; telephone 1–877–477–2123.

FOR FURTHER INFORMATION CONTACT: Mark E. Nehring, DMD, MPH, 301–443–1080, e-mail: *mnehring@hrsa.gov* (for questions specific to project activities of the program, program objectives, or the Letter of Intent described above); and Mona D. Thompson, 301–443–3429; e-mail, *mthompson@hrsa.gov* (for grants policy, budgetary, and business questions).

SUPPLEMENTARY INFORMATION:

Program Background and Objectives: Today, MCHB is the principal Federal agency supporting State dental programs. Most State dental programs are organizationally part of the State's maternal and child health (MCH) program. Nearly 80 percent of State dental program funds come from Federal MCH Block Grants to States funds. MCHB provides the infrastructure for most oral health prevention and services programs in our Nation. MCHB-sponsored programs have considerable flexibility and legislative authority to support State dental programs and to develop partnerships between the public and private sectors to address the needs of all mothers and children. This critical role, however, is not matched with sufficient resources to meet demand.

Despite tremendous advances in prevention, dental caries remains the predominant childhood disease, continuing to take a heavy toll on children's health and well-being across all socioeconomic, racial, and ethnic groups. Increasingly, we are witnessing a concentration of dental illness both in quantity and severity among children living in poverty and of racial and ethnic minorities. From all available data it is clear that in most parts of our nation, inadequate access to dental care is commonplace for children of families living in poverty.

In order for children to be raised in healthy families and communities, all community service systems, including oral health, need to take ownership of the problems and solutions associated with assuring children's access to comprehensive systems of quality care. Nationwide, there is a growing body of evidence documenting the serious obstacles impeding oral health care access, not the least of which is an inadequate number, distribution and availability of providers for the nation's most needy children. Current systems of health, education, social services and child care are often crisis oriented and designed to address problems that have already occurred rather than proactively oriented to prevent them. These systems tend to divide the problems of children, families, and communities into rigid categorical programs that fail to reflect interrelated causes and solutions. This categorical organization of service systems makes it impossible for the current systems to meet the needs of children, families, and communities. Truly effective and sustainable successes can be achieved through building integrated partnerships that make a firm commitment to implementing programs and policies that are creative, comprehensive and collaborative.

Authorization: Section 501(a)(2) of the Social Security Act (42 U.S.C. 701(a)(2)).

Purpose: This purpose of this grant program is to support States' efforts to develop, implement or otherwise strengthen State oral health collaborative strategies that increase access to oral health services for Medicaid and State Children's Health Insurance Program (SCHIP) eligible children, and other underserved children and their families. These grants are intended to address the cross-cutting oral health needs of women and children. These needs range from broad-based interventions such as strategic planning, public/private partnerships and comprehensive integrated support systems to more narrowly focused interventions such as early childhood decay, sealant and prevention programs. These efforts follow up:

1. Findings contained in the Office of the Inspector General Report: Children's Dental Service Under Medicaid Access and Utilization, and Oral Health in America: A Report of the Surgeon General.

2. The Health Resources and Services Administration (HRSA)/Centers for Medicaid and Medicare Services (CMS) sponsored conference, Building Partnerships to Improve Access to Medicaid Oral Health Services.

3. The American Dental Association (ADA) sponsored Achieving Improvement in Medicaid—AIM for Change meeting held in Chicago, Illinois, August 2–3, 1999.

4. Recommendations for State strategic plans developed through State Oral Health Summit meetings, National Governors Association (NGA) Policy Academies and/or Head Start Forums.

5. Maternal and Child Health Bureau (MCHB) performance measures addressing the presence of sealants on third grade student molars, enrollment in Medicaid/SCHIP and/or the presence of essential elements in State Oral Health Plans.

6. The report Oral Health in America: A Report of the Surgeon General, and subsequent release of A National Call to Action to Promote Oral Health.

Eligibility: States (defined in this offering as States and Jurisdictions) are eligible to apply for State Oral Health Collaborative Systems Grant funding, unless the State specifically requests and designates another State-approved government or non-government agency and provides a convincing justification for so doing. States designating another agency must submit an endorsement acknowledging that the applicant has consulted with the State and that the State has been assured that the applicant will work with the State on the proposed project. This endorsement must accompany the application. Without the endorsement, the application will not be considered for funding. Because of the importance of linking oral health activities with

systems of care for children, the involvement of the State MCH program is strongly encouraged. Such involvement could be demonstrated either by a co-signed application or by a letter of support.

Funding Level/Project Period: Approximately $2,950,000 is available for the State Oral Health Collaborative Systems grants during FY 2003. These awards will be made not to exceed $50,000 (including indirect costs) per award, per year, for a project period of one year, beginning approximately September 01, 2003. The applicant is invited, within this same application, to apply for up to an additional $50,000, should funds become available or fewer than fifty-nine applications are approved and recommended for funding. To be considered for additional funding, States must submit an addendum to the application to include a revised face page (SF 424), budget and budget justification that would support an increased scope of work and requested funding level, up to $50,000, inclusive of indirect costs, and is in keeping with the programmatic objectives of this grant offering. Finally, cost sharing or matching is not required or encouraged under the SOHCS grant program.

Review Criteria: Applications that are complete and responsive to the guidance will be evaluated by an objective review panel specifically convened for this solicitation and in accordance with HRSA grants management policies and procedures.

Applications will be reviewed using the following HRSA criteria:

1. Description of the Problem—The extent to which the project describes the severity of oral health needs of the community.

2. Goals & Objectives ''Major goals and objectives are clearly stated and attainable for the project period.

3. Implementation Plan—The quality of the project plan or methodology is adequately explained indicating the extent to which the project will contribute to the advancement of maternal and child health and/or improvement of the oral health of underserved children as measured through MCHB performance measures addressing the presence of sealants on third grade student molars, enrollment in Medicaid/SCHIP and/or the presence of essential elements in State Oral Health Plans.

4. Partnerships (Collaborative Agencies and Programs)—The extent to which the project demonstrates commitment of prospective partners and strength of the applicant's plan for integrating oral health into existing public and private health systems.

5. Budget—The extent to which the estimated cost to the Government of the project is reasonable, considering the anticipated results.

Paperwork Reduction Act: OMB approval for any data collection in connection with this grant program will be sought, as required under the Paperwork Reduction Act of 1995.

Public Health System Reporting Requirements: This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372: The MCH Federal Set-Aside program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

Dated: August 13, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–21197 Filed 8–14–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974: Revision to Existing System of Records

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notification of an altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, HRSA is publishing a notice of a proposal to revise an existing system of records, 09–15–0055, Organ Procurement and Transplantation Network (OPTN) Data System.

DATES: Effective Date: The modifications to this system will become effective without further notice on September 29, 2003, unless comments dictate otherwise. *Comment Date*: To be considered, written comments must be received on or before September 29, 2003.

ADDRESSES: Written comments should be addressed to James Burdick, M.D., Director, Division of Transplantation, Office of Special Programs, Health Resources and Services Administration, Parklawn Building, Room 16C–17, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: James Burdick, M.D., Director, Division of Transplantation, Office of Special Programs, HRSA, Parklawn Building, Room 16C–17, 5600 Fishers Lane, Rockville, Maryland 20857. The telephone number is 301–443–7577.

SUPPLEMENTARY INFORMATION: The current Notice of System of Records requires updated and expanded information in several sections, *e.g.*, Name, System Locations, Categories of Records in the System, Purpose, Safeguards, and Retention and Disposal. In addition, this notice updates and modifies the routine uses of this Notice. Data collected by the OPTN are shared on a monthly basis with the contractor for the Scientific Registry of Transplant Recipients (SRTR) and HRSA's Division of Transplantation (DoT), the Federal entity that oversees the OPTN and SRTR contracts. The notice is published below in its entirety, as amended.

The definitions of the final rule governing the operation of the OPTN (42 CFR part 121) apply to this System of Records Notice.

Dated: August 4, 2003.

Jon Nelson,

Associate Administrator for Management and Program Support.

[FR Doc. 03–20685 Filed 8–15–03; 8:45 am]

BILLING CODE 4165–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Lupus Today: Research Into Action Conference; Notice

The National Institutes of Health (NIH) will conduct a conference concerning systemic lupus erythematosus (SLE) research, entitled ''Lupus Today: Research Into Action,'' on September 5–6, 2003, at the Marriott Wardman Park Hotel, 2660 Woodley Road, NW, Washington, DC 20008. The conference will focus on the current status and future directions for SLE research. It will highlight key research accomplishments and what these accomplishments may represent for the current and future management of lupus. The conference is sponsored by the Office of Research on Women's Health at the Department of Health and Human Services's (DHHS) NIH, the Office on Women's Health at DHHS, and the National Institute of Arthritis and Musculoskeletal and Skin Diseases at the NIH. Eleven DHHS components and eight voluntary organizations are co-sponsoring the conference.

National leaders in lupus research have been invited to discuss the latest scientific discoveries that are opening up new avenues of diagnosis and treatment. Additionally, the agenda will include a panel discussion on patient participation in lupus studies and how patients and patient advocacy organizations view lupus research today. Another panel will focus on future lupus clinical trial opportunities and barriers from both the private and public health perspectives. The conference organizers hope to inform, energize, and share the excitement about the future of lupus research with patients and their families, physicians, health care workers, scientists, and organizations involved in lupus research and outreach.

Individuals interested in registering for the conference and/or learning more about it should visit the conference Web site at *http://www4.od.nih.gov/orwh/lupusregistration.pdf* >. The Web site provides an updated agenda.

Dated: August 11, 2003.

Vivian W. Pinn,

Associate Director for Research on Women's Health, National Institutes of Health.

[FR Doc. 03–20959 Filed 8–15–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG 2003–15884]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 1625–0056, Labeling Required in 33 CFR Parts 181 and 183 and 46 CFR 25.10–3

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR concerns Labeling Required in 33 CFR parts 181 and 183 and 46 CFR 25.10–3. Before submitting the ICR to OMB, the Coast Guard is inviting comments on it.

DATES: Comments must reach the Coast Guard on or before October 17, 2003.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2003–15884] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

(5) Electronically through Federal eRule Portal: *http://www.regulations.gov.*

The Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this request for comment by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov,* and they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2003–15884], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and

conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can 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 the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 [65 FR 19477], or you may visit *http://dms.dot.gov.*

Request for Comments

The Coast Guard encourages interested persons to submit comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2003–15884], and give the reasons for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Request

Title: Labeling Required in 33 CFR parts 181 and 183 and 46 CFR 25.10–3.

OMB Control Number: 1625–0056.

Summary: The rules and safety standards contain information collections that require manufacturers of boats, uninspected commercial vessels, and associated equipment; importers; and the boating public to apply for serial numbers and to display various labels evidencing compliance.

Need: Title 46 U.S.C. 4310 gives the Coast Guard the authority to require manufacturers of recreational boats and certain items of associated equipment to comply with rules of the Coast Guard. Parts 181 and 183 of Title 33, Code of Federal Regulations, and 46 CFR 25.10–3 contain the rules and safety standards authorized by the statutes that apply to manufacturers of recreational boats, uninspected commercial vessels, and associated equipment.

Respondents: Manufacturers of recreational boats, uninspected commercial vessels, and associated equipment.

Frequency: One time a boat.

Burden: The estimated burden is 385,408 hours a year.

Dated: August 7, 2003.

Clifford I. Pearson,

Director of Information and Technology.

[FR Doc. 03–21089 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed new information collection. In accordance with the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3506 (c)(2)(A)), this notice seeks comments concerning the use of the Excess Federal Real Property Program application.

SUPPLEMENTARY INFORMATION: The purpose of the Excess Federal Real Property Program is to convey at no cost to State and local governments excess Federal real property that the Federal Emergency Management Agency (FEMA) determines can be used for emergency management response purposes in perpetuity. The Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 553, (formerly 40 U.S.C. 484(p)), authorizes the Administrator of the General Services Administration (GSA) to transfer or convey (without monetary consideration) Federal real and related surplus property needed for emergency management response purposes, including fire rescue services, as determined by the Under Secretary, Emergency Preparedness and Response Directorate, Department of Homeland Security. GSA's implementing regulations are contained in 41 CFR part 101–47.

Collection of Information

Title: Excess Federal Real Property Program Application.

Type of Information Collection: New.

Abstract. GSA provides announcements to FEMA and to State and local governments concerning available Federal surplus real property for emergency management response use purposes including fire and rescue services. An applicant must notify the disposal agency such as GSA Regional and Headquarters offices, the Department of Defense (DOD) Base Realignment Closure (BRAC) Offices, and FEMA Regional and Headquarters offices of its intent to acquire the property. The notification should occur within 20 days after notification of property availability. States, the District of Columbia, any territory or possession of the United States, or any political subdivision or instrumentality thereof, may apply for the transfer or conveyance of surplus real property for emergency management response use purposes. An applicant must formally submit a completed Excess Federal Real Property Program application including supporting documentation to FEMA. After receiving this information, FEMA will then determine if the requested excess Federal real property is required for emergency management response use. The application process is designed to ensure that the applicant's proposed use of the Federal real property is for emergency management use as an integral part of applicable State and local government plans. The completed application form is designed to ensure that the applicant conforms to GSA and DOD regulatory conditions.

Affected Public: State, local or Tribal government.

Estimated Total Annual Burden Hours: 3.

FEMA form	No. of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A x B x C)
Excess Federal Real Property Application	1	1	3	3
Total	1	1	3	3

Estimated Cost: $150.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Services Directorate, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address: *InformationCollection@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Mike Bozzelli, Chief, Facility Policy and Oversight Branch, Facilities Management and Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security at (202) 646–4129. You may contact Ms. Anderson for copies of the proposed collection.

Dated: August 12, 2003.

George S. Trotter,

Acting Division Director, Information Resource Management Division, Information Technology Services Directorate.

[FR Doc. 03–21005 Filed 8–15–03; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Application for Loan Cancellation.

Type of Information Collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

OMB Number: 3067–0026.

Abstract: The Community Disaster Loan Program is authorized by section 417 of the Disaster Relief Act of 1974 (Public Law 93–288), as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Public Law 100–707), and implemented by FEMA regulation 44 CFR, subpart K, § 364. Local governments may submit an Application for Loan Cancellation through the Governor's Authorized Representative to the FEMA Regional Director prior to the expiration date of the loan. FEMA has the authority to cancel repayment of all or part of a Community Disaster Loan to the extent that a determination is made that revenues of the local government during the three fiscal years following the disaster are insufficient to meet the operation budget of that local government because of disaster-related revenue losses and additional unreimbursed disaster-related revenue losses and additional unreimbursed disaster-related municipal operating character. Operating budget means actual revenues and expenditures of the local government as published in the official financial statements of the local government.

Affected Public: State, local, or Tribal governments.

Number of Respondents: 1.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1.

Frequency of Response: On occasion.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Preparedness and Response Directorate/ Federal Emergency Management Agency, Washington, DC 20503, within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Service Directorate, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address: *InformationCollections@fema.gov.*

Dated: August 11, 2003.

George Trotter,

Acting Division Director, Information Resources Management Division, Information Technology Services Directorate.

[FR Doc. 03–21006 Filed 8–15–03; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3507).

Title: Mortgage Portfolio Protection Program (MPPP).

Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

OMB Number: 3067–0229.

Abstract: The National Flood Insurance Program (NFIP) authorized by

Public Law 90–448 (1968) and expanded by Public Law 93–234 (1973) and Public Law 103–325 (1994) provides federally subsidized flood insurance for existing buildings exposed to flood risk. In return, communities enact and administer construction safeguards to ensure that new construction in the floodplain will be built to eliminate or minimize future flood damage. In accordance with Public Law 93–234, the purchase of flood insurance is mandatory when Federal or federally related financial assistance is being provided for acquisition or construction of buildings located or to be located within FEMA-identified special flood hazard areas of communities that are participating in the program. The MPPP is a mechanism by which lending institutions, mortgage servicing companies and others servicing mortgage loan portfolios can bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973.

Affected Public: Individuals and Households; Business or other for profit; Not-for-profit institutions; Farms; Federal Government; State, local, or Tribal government.

Number of Respondents: 273.

Estimated Time per Respondent: WYO—0.5 minutes; Lender/Services—0.5 minutes; WYO Company Policy—0.25 hours; New WYO Entrant 750 hours.

Estimated Total Annual Burden Hours: 2,386.

Frequency of Response: One-time.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Emergency Preparedness and Response Directorate/Federal Emergency Management Agency, Washington, DC 20503, within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Services Directorate, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security 500 C Street, SW., Room 316, Washington, DC 20472. Facsimile number (202) 646–3347, or e-mail address *InformationCollections@fema.gov.*

Dated: August 11, 2003.

George Trotter,

Acting Division Director, Information Resources Management Division, Information Technology Services Directorate.

[FR Doc. 03–21007 Filed 8–15–03; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3507).

Title: Application for Community Disaster Loan.

Type of Information Collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

OMB Number: 3067–0034.

Abstract: The Community Disaster Loan Program is authorized by section 417 of the Disaster Relief Act of 1974 (Public Law 93–288), as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Public Law 100–707), and implemented by FEMA regulation 44 CFR, subpart K, § 206.364. The Community Disaster Loan Program offers loans to local governments that have suffered a substantial loss of tax or other revenues as a result of a major disaster or emergency and demonstrates a need for Federal financial assistance in order to perform their governmental functions. The loan must be justified on the basis of need and be based on the actual and projected expenses, as a result of the disaster, for the fiscal years in which the occurred and the three succeeding fiscal years. The local government may submit an Application for Community Disaster Loan through the Governor's Authorized Representative.

Affected Public: State, local, or Tribal governments.

Number of Respondents: 3.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 3.

Frequency of Response: On occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Emergency Preparedness and Response Directorate/Federal Emergency Management Agency, Washington, DC 20503, within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Services Directorate, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address: *InformationCollections@fema.gov.*

Dated: August 11, 2003.

George Trotter,

Acting Division Director, Information Resources Management Division, Information Technology Services Directorate.

[FR Doc. 03–21008 Filed 8–15–03; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3507).

Title: Crisis Counseling Assistance Training Program—Immediate Services Program.

Type of Information Collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

OMB Number: 3067–0166.

Abstract: Section 416 of the Disaster Relief Act of 1974 (Public Law 93–288), as amended by the Robert T. Stafford Disaster and Emergency Assistance Act of 1988 (Public Law 100–707), 42 U.S.C. 5183, authorizes the President to provide financial assistance to State and local governments for professional counseling services to victims of major disasters in order to relieve mental health problems caused or aggravated by a major disaster or its aftermath. FEMA regulation 44 CFR part 206, subpart F, section 206.171, implements the provisions of the Act.

The Immediate Services Program provides funding in response to a State request for the period immediately following a Presidentially declared disaster, and includes community outreach, consultation and public education and counseling techniques. The program is available for a limited period of time not to exceed 60 days, unless an application for regular program funding is submitted. FEMA provides funds in the form of a Federal grant through the State emergency management office to the State Mental Health Authority or other mental health organization designated by the Governor to provide crisis-counseling services to the Presidentially declared communities.

Affected Public: State, local, or Tribal governments.

Number of Respondents: 17.

Estimated Time Per Respondent: 80 hours.

Estimated Total Annual Burden Hours: 1,480.

Frequency of Response: On occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Emergency Preparedness and Response Directorate/Federal Emergency Management Agency, Washington, DC 20503, within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Services Directorate, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address: *InformationCollections@fema.gov.*

Dated: August 11, 2003.

George Trotter,

Acting Division Director, Information Resources Management Division, Information Technology Services Directorate.

[FR Doc. 03–21009 Filed 8–15–03; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2003–15901]

Privacy Act of 1974: System of Records

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice to establish new and altered systems of records; request for comments.

SUMMARY: The Transportation Security Administration is altering three systems of records and establishing six new systems of records under the Privacy Act of 1974.

DATES: Comments due on September 17, 2003.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number TSA–2003–15901 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that TSA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet at *http://dms.dot.gov.* Please be aware that anyone is able to search the electronic form of all comments received into any of these 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.* You may also review the public docket containing comments in person at the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

FOR FURTHER INFORMATION CONTACT: Conrad Huygen, Privacy Act Officer, TSA Office of Information Management Programs, TSA Headquarters, West Tower, 4th Floor (412S), 601 S. 12th Street, Arlington, VA 22202–4220; telephone (571) 227–1954; facsimile (571) 227–2912.

SUPPLEMENTARY INFORMATION:

Background

Prior to March 1, TSA was an operating administration within the Department of Transportation (DOT). While part of the DOT, TSA established three Privacy Act systems of records. *See* 67 FR 77311, Dec. 17, 2002. As of March 1, 2003, TSA became a component of the Department of Homeland Security (DHS) and is now required to republish its established systems and new systems under DHS. TSA is republishing its established systems, with modifications to the routine uses section of each. TSA is also establishing six new systems.

DHS/TSA 001

SYSTEM NAME:

Transportation Security Enforcement Record System (TSERS)

SECURITY CLASSIFICATION:

Classified, sensitive.

SYSTEM LOCATION:

Records are maintained in the Office of Chief Counsel and in the Office of the Assistant Administrator for Aviation Operations, Transportation Security Administration (TSA) Headquarters in Arlington, Virginia. Records will also be maintained at the various TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners, operators, and employees in all modes of transportation for which TSA has security-related duties; witnesses; passengers undergoing screening of their person or property; and individuals against whom investigative, administrative, or legal enforcement action has been initiated for violation of certain Transportation Security Administration Regulations (TSR), relevant provisions of 49 U.S.C. Chapter 449, or other laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to the screening of passengers and property and the investigation or prosecution of any alleged violation, including name of and demographic information about alleged violators and witnesses; place of

violation; Enforcement Investigative Reports (EIRs); security incident reports, screening reports, suspicious-activity reports and other incident or investigative reports; statements of alleged violators and witnesses; proposed penalty; investigators' analyses and work papers; enforcement actions taken; findings; documentation of physical evidence; correspondence of TSA employees and others in enforcement cases; pleadings and other court filings; legal opinions and attorney work papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114(d), 44901, 44903, 44916, 46101, 46301.

PURPOSES:

The records are created in order to maintain a civil enforcement and inspections system for all modes of transportation for which TSA has security related duties. They may be used, generally, to identify, review, analyze, investigate, and prosecute violations or potential violations of transportation security laws. They may also be used to record the details of TSA security-related activity, such as passenger or baggage screening.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(9) To third parties during the course of an investigation into violations or potential violations of transportation security laws to the extent necessary to obtain information pertinent to the investigation.

(10) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

(11) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving matters over which TSA exercises jurisdiction.

(12) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(13) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(14) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(15) To the Attorney General of the United States or his/her official designee, when information indicates that an individual meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by TSA to the Attorney General, or his/her designee, it shall be a routine use of the information in this system of records to furnish records or information to the national Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

(16) To the news media in accordance with the guidelines contained in 28 CFR 50.2, which relate to civil and criminal proceedings.

(17) To any agency or instrumentality charged under applicable law with the protection of the public health or safety under exigent circumstances where the public health or safety is at risk.

(18) To the Department of Justice, United States Attorney's Office, or other Federal agencies for further collection action on any delinquent debt when circumstances warrant.

(19) To a debt collection agency for the purpose of debt collection.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Privacy Act information may be reported to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12) collecting on behalf of the United States Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and in computer-accessible storage media. Records are also stored on microfiche and roll microfilm.

RETRIEVABILITY:

Records are retrieved by name, address, social security account number, administrative action or legal enforcement numbers, or other assigned identifier of the individual on whom the records are maintained.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who also have a need-to-know; using locks, alarm devices, and passwords; and encrypting data communications. Strict control measures are enforced to ensure that access to classified and/or sensitive information in these records is also based on ''need to know.'' Electronic access is limited by computer security measures that are strictly enforced. TSA file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

National Archives and Records Administration approval is pending for the records in this system. Paper records and information stored on electronic storage media are maintained within TSA for five years and then forwarded to Federal Records Center. Records are destroyed after ten years.

SYSTEM MANAGER AND ADDRESS:

Information Systems Program Manager, Office of the Chief Counsel, TSA Headquarters, West Tower, 8th Floor, TSA–2, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURE:

Same as ''Notification Procedures'' above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure,'' and ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the alleged violator, TSA employees or contractors, witnesses to the alleged violation or events surrounding the alleged violation, other third parties who provided information regarding the alleged violation, state and local agencies, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2).

DHS/TSA 002

SYSTEM NAME:

Transportation Workers Employment Investigations System (TWEI).

SECURITY CLASSIFICATION:

Classified, Sensitive.

SYSTEM LOCATION:

Records are maintained at the offices of the Transportation Security Administration (TSA) Headquarters in Arlington, Virginia. Some records may also be maintained at the offices of a TSA contractor, or in TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who require or seek access to airport secured or sterile areas; have unescorted access authority to a security identification display area (SIDA); have authority to grant others unescorted access to a SIDA; are seeking unescorted access authority to a SIDA; are seeking to have authority to grant others unescorted access to a SIDA; have regular escorted access to a SIDA; or are seeking regular escorted access to a SIDA.

(b) Individuals who have or are seeking responsibility for screening passengers or carry-on baggage, and those persons serving as immediate supervisors and the next supervisory level to those individuals, other than employees of the TSA who perform or seek to perform these functions.

(c) Individuals who have or are seeking responsibility for screening checked baggage or cargo, and their immediate supervisors, other than employees of the TSA who perform or seek to perform these functions.

(d) Individuals who have or are seeking the authority to accept checked baggage for transport on behalf of an aircraft operator that is required to screen passengers.

(e) Pilots, flight engineers, flight navigators, and flight attendants assigned to duty in an aircraft during flight time for an aircraft operator that is required to adopt and carry out a security program.

(f) Individuals who have or are seeking access to a transportation facility in the maritime or land transportation system.

(g) Other individuals who are connected to the transportation industry for whom TSA conducts background investigations to ensure transportation security.

CATEGORIES OF RECORDS IN THE SYSTEM:

TSA's system may contain any or all of the following: (a) Name; (b) address; (c) social security number; (d) date of birth; (e) name and submitting office number of the airport, aircraft operator, or maritime or land transportation operator submitting the individual's information; (f) control number associated with identification credential; (g) OPM case number; (h) other data as required by Form FD 258 (fingerprint card); (i) dates of submission and transmission of the information, as necessary to assist in tracking submissions, payments, and transmission of records; (j) identification records obtained from the Federal Bureau of Investigation (FBI), which are compilations of criminal history record information pertaining to individuals who have criminal fingerprints maintained in the FBI's Fingerprint Identification Records System (FIRS); (k) data gathered from foreign governments that are necessary to address security concerns in the aviation, maritime, or land transportation systems; (l) information provided by the Central Intelligence Agency; (m) other information provided by the information systems of other Federal, State, and local governmental agencies; and (n) fingerprint and/or other biometric identifier.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114, 5103a, 44936, 46105; Section 102, Pub. L. 107–295 (Maritime Transportation Security Act of 2002); Section 1012, Pub. L. 107–56 (USA PATRIOT Act).

PURPOSE(S):

(a) To facilitate the performance of secured access background checks and other employment investigations, including fingerprint-based criminal history records checks (CHRCs), which Federal law and TSA regulations require for the individuals identified in

''Categories of individuals covered by the system'' above.

(b) To assist in the management and tracking of the status of secured access background checks and other employment investigations.

(c) To permit the retrieval of the results of secured access background checks and other employment investigations, including criminal history records checks and searches in other governmental identification systems, performed on the individuals covered by this system.

(d) To permit the retrieval of information from other law enforcement and intelligence databases on the individuals covered by this system.

(e) To track the fees incurred and payment of those fees by the airport operators, aircraft operators, and maritime and land transportation operators for services related to the secured access background checks and other employment investigations.

(f) To facilitate the performance of other investigations that TSA may provide to ensure transportation security.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(9) To third parties during the course of an investigation into violations or potential violations of transportation security laws to the extent necessary to obtain information pertinent to the investigation.

(10) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

(11) To the Office of Personnel Management (OPM), the FBI, and other government agencies, as necessary, to conduct the background check or employment investigation and to facilitate payment and accounting.

(12) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving matters over which TSA exercises jurisdiction.

(13) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(14) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(15) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(16) To the Attorney General of the United States or his/her official designee, when information indicates that an individual meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by TSA to the Attorney General, or his/her designee, it shall be a routine use of the information in this system of records to furnish records or information to the national Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In electronic storage media and hard copy.

RETRIEVABILITY:

Information can be retrieved by name, social security number, submitting office number (SON), OPM case number, or other unique number assigned to the individual.

SAFEGUARDS:

All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These

safeguards include restricting access to those authorized with a need-to-know; using locks, alarm devices, and passwords; and encrypting data communications.

RETENTION AND DISPOSAL:

National Archives and Records Administration approval is pending for the records in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Credentialing Program Office, TSA Headquarters, East Tower, 11th Floor, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedures'' above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedures,'' and ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information is collected from individuals subject to a secured access background check or other employment investigation and from aviation, maritime, and land transportation operators. Information is also collected from domestic and international intelligence sources, including the Central Intelligence Agency, and other governmental, private and public databases. The sources of information in the criminal history records obtained from the FBI are set forth in the Privacy Act system of records notice ''JUSTICE/FBI–009.''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2).

DHS/TSA 004

SYSTEM NAME:

Personnel Background Investigation File System

SECURITY CLASSIFICATION:

Classified, Sensitive.

SYSTEM LOCATION:

Records are maintained at the offices of the Transportation Security Administration Headquarters located in Arlington, Virginia. Some records may also be maintained at the offices of a TSA contractor, or in TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TSA employees, applicants for TSA employment, and TSA contract employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains an index reference record used to track the status of an applicant's background investigation, Standard Form 85P—''Questionnaire For Public Trust Positions,'' investigative summaries and compilations of criminal history record checks, and administrative records and correspondence incidental to the background investigation process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301, 3302; 49 U.S.C. 114, 44935; 5 CFR parts 731, 732, and 736; and Executive Orders 10450, 10577, and 12968.

PURPOSE(S):

The system will maintain investigative and background records used to make suitability and eligibility determinations for the individuals listed under ''Categories of individuals.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) Except as noted in Question 14 of the Questionnaire for Public Trust Positions, to the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this record for which they have been engaged. Such recipients shall be required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(9) To third parties during the course of an investigation into violations or potential violations of transportation security laws to the extent necessary to obtain information pertinent to the investigation.

(10) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

(11) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving matters over which TSA exercises jurisdiction.

(12) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(13) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(14) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(15) To the Attorney General of the United States or his/her official designee, when information indicates that an individual meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by TSA to the Attorney General, or his/her designee, it shall be a routine use of the information in this system of records to furnish records or information to the national Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

(16) To any agency or instrumentality charged under applicable law with the protection of the public health or safety under exigent circumstances where the public health or safety is at risk.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and in computer-accessible storage media. Records are also stored on microfiche and roll microfilm.

RETRIEVABILITY:

Records are retrieved by name, address, and social security account number or other assigned tracking identifier of the individual on whom the records are maintained.

SAFEGUARDS:

Access to TSA working and storage areas is restricted to employees on a ''need to know'' basis. Strict control measures are enforced to ensure that access to these records is also based on ''need to know.'' Generally, TSA file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

Paper records and information stored on electronic storage are destroyed upon notification of death or not later than 5 years after separation or transfer of employee or no later than 5 years after contract relationship expires, whichever is applicable.

SYSTEM MANAGER AND ADDRESS:

Director of the Credentialing Program Office, TSA Headquarters, East Tower, 11th Floor, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedures'' above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure,'' and ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the job applicant on the Questionnaire For Public Trust Positions, law enforcement and intelligence agency record systems, publicly available government records and commercial data bases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(5).

DHS/TSA 005

SYSTEM NAME:

Internal Investigation Record System (IIRS)

SECURITY CLASSIFICATION:

Classified, sensitive.

SYSTEM LOCATION:

Records are maintained in the Office of the Assistant Administrator for Internal Affairs and Program Review, Transportation Security Administration (TSA) Headquarters in Arlington, Virginia. Records may also be maintained at TSA's Office of Chief Counsel, the Office of the Assistant Administrator for Aviation Operations, or at various TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Current and former TSA employees and current and former consultants, contractors, and subcontractors with whom the agency has done business, and their employees; (b) Witnesses, complainants, and other individuals who have been identified as relevant to the investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Information relating to investigations, including identifying information related to the parties to the investigation (*e.g.*, subject, complainants, witnesses); correspondence; memoranda (including legal opinions or advice provided by agency counsel); statements and other information provided by investigation subjects, complainants, witnesses, or others; and details of alleged criminal, civil, or administrative misconduct, or otherwise indicative of such misconduct, by TSA employees.

(b) Investigative files and reports prepared by the Office of Internal Affairs and Program Review, to include all related material such as exhibits, statements, affidavits, records obtained during the course of the investigation (including those obtained from other sources, such as Federal, State, local, international, or foreign investigatory or law enforcement agencies and other government agencies), and records involving the disposition of the investigation and any resulting agency action (*e.g.*, criminal prosecutions, civil proceedings, administrative action).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114.

PURPOSES:

(a) To facilitate and assist in the management, tracking, and retrieval of investigations of allegations or appearances of misconduct (and related incidents) of current or former TSA employees or contractors.

(b) To promote economy, efficiency, and effectiveness of the Internal Investigation system, to conduct and supervise investigations covered by this system, and to detect fraud and abuse in the investigations program.

(c) To provide support for any adverse action that may occur as a result of the findings of the investigation.

(d) To monitor case assignment, disposition, status, and results of investigations.

(e) To permit the retrieval of investigation results performed on the individuals covered in this system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(9) To third parties during the course of an investigation into violations or potential violations of transportation security laws to the extent necessary to obtain information pertinent to the investigation.

(10) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

(11) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving matters over which TSA exercises jurisdiction.

(12) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(13) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(14) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(15) To the Attorney General of the United States or his/her official designee, when information indicates that an individual meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by TSA to the Attorney General, or his/her designee, it shall be a routine use of the information in this system of records to furnish records or information to the national Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

(16) To complainants to the extent necessary to provide such persons with relevant information and explanations concerning the progress and/or results of the investigation or case arising from the matters about which they complained.

(17) To professional organizations or associations with which individuals covered by this system of records may be affiliated, such as law enforcement disciplinary authorities, to meet those organizations' responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In electronic storage media and hard copy.

RETRIEVABILITY:

Records are retrieved by name, a unique number assigned by the Office of Internal Affairs and Program Review, or other assigned tracking identifier of the individual on whom the records are maintained.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to those authorized with a need to know and using locked cabinets, alarms, and passwords. TSA file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

National Archives and Records Administration approval is pending for the records in this system. The request

states that paper records and information stored on electronic storage media are maintained within the Office of Internal Affairs and Program Review for 3 years and then forwarded to the Federal Records Center. Records are destroyed after 15 years.

SYSTEM MANAGER AND ADDRESS:

Management Analyst, Office of Internal Affairs and Program Review, TSA Headquarters, West Tower, 3rd Floor, TSA–13, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURE:

Same as ''Notification Procedures'' above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security's Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure'' and ''Record Access Procedure,'' above.

RECORD SOURCE CATEGORIES:

Information maintained in this system is primarily obtained from individuals associated with the investigation of alleged misconduct of TSA employees or contractors, to include the employee, other TSA employees or contractors, witnesses to the alleged violation or events surrounding the alleged misconduct, or other third parties who provided information regarding the alleged misconduct. Information may also be collected from documents such as incident reports and audit reports, and from other sources, such as law enforcement, financial institutions, employers, state and local agencies, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2).

DHS/TSA 006

SYSTEM NAME:

Correspondence and Matters Tracking Records (CMTR)

SECURITY CLASSIFICATION:

Sensitive, Classified.

SYSTEM LOCATION:

Records are maintained at Transportation Security Administration (TSA) Office of the Executive Secretariat, TSA Headquarters in Arlington, Virginia. Records may also be located at the Office of Legislative Affairs, and the Office of the Ombudsman (which includes the Consumer Response Center (CRC)), to the extent those offices maintain matter tracking information. Records may also be maintained in other offices at TSA Headquarters and at the various TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers individuals who submit inquiries, comments, complaints, or claims to TSA in writing, in person, or by telephone, for response and resolution and those with any matter pending before TSA. This includes TSA employees, Members of Congress and their staff, officers and employees of other Executive branch agencies and the White House, tort and property claimants who have filed claims against the Government or TSA, stakeholders, passengers in transportation, and members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and information related thereto, including name, address, and telephone number of individuals contacting TSA; records of contacts made by or on behalf of individuals, including inquiries, comments, complaints, resumes and letters of reference; staff reports; TSA's responses to correspondence and calls; and staff recommendations on actions requiring approval or action by a TSA official. The system also includes records, including those prepared by TSA employees, related to matters under consideration by TSA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114; 5 U.S.C. 301.

PURPOSES:

(a) To facilitate and assist in the management, tracking, retrieval, and response to incoming correspondence, inquiries, claims, and complaints associated with all subject matters over which TSA exercises jurisdiction.

(b) To monitor assignment, disposition, status, and results of correspondence, inquiries, claims, and complaints sent to TSA and, generally, to review, analyze, investigate, and study trends identified by the concerns expressed.

(c) To facilitate and assist in the management, tracking, and retrieval of information associated with matters and issues under consideration by TSA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) To the appropriate Federal, State, local, tribal, territorial, foreign, or nternational agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international

agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(9) To third parties during the course of an investigation into violations or potential violations of transportation security laws to the extent necessary to obtain information pertinent to the investigation.

(10) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

(11) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and law suits involving matters over which TSA exercises jurisdiction.

(12) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(13) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(14) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(15) To the Attorney General of the United States or his/her official designee, that indicates that an individual meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by TSA to the Attorney General, or his/her designee, it shall be a routine use of the information in this system of records to furnish records or information to the national Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

(16) To the DOJ, United States Attorney's Office, or other federal agencies for further collection action on any delinquent debt when circumstances warrant.

(17) To a debt collection agency for the purpose of debt collection.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Privacy Act information may be reported to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12) for the purpose of collecting a debt on behalf of the United States Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In electronic storage media and hard copy. Records that are sensitive or classified are safeguarded in accordance with agency procedures, and applicable Executive Orders and statutes.

RETRIEVABILITY:

Records are retrieved by name, social security account number or other assigned identifier of an individual covered by this system.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know and password protection identification features. TSA file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

A request is pending for National Archives and Records Administration approval for the retention and disposal of records in this system.

SYSTEM MANAGER AND ADDRESS:

Director, Office of the Executive Secretariat, TSA Headquarters, West Tower, 12th Floor, 1206S, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURE:

Same as ''Notification Procedure'' above. Provide your full name and the description of the information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security's Privacy Act regulations on verification of identity. (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure'' and ''Record Access Procedure'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from calls and correspondence from or on behalf of individuals who contact TSA with inquiries, comments, complaints, or claims, as well as from TSA employees or contractors and witnesses, and other third parties who provide pertinent information where applicable. Information may also be collected from documents such as records of the contact made with TSA, incident reports, and from other sources, such as employers, state and local agencies, other Federal agencies, and related material for background as appropriate.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2).

DHS/TSA 007

SYSTEM NAME:

Freedom of Information Act and Privacy Act Record System.

SECURITY CLASSIFICATION:

Classified, sensitive.

SYSTEM LOCATION:

This system of records is located in the Freedom of Information Act Office, Office of Law Enforcement and Security Liaison, Transportation Security Administration (TSA) Headquarters in Arlington, Virginia. Records will also be maintained at various TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who submit Freedom of Information Act (FOIA) and Privacy Act (PA) requests to TSA; individuals whose requests and/or records have been referred to TSA by other agencies; and in some instances, attorneys or other persons representing individuals submitting such requests and appeals,

individuals who are the subjects of such requests, and/or TSA personnel assigned to handle such requests or appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records received, created, or compiled in response to FOIA/PA requests or appeals, including: the original requests and administrative appeals; intra- or inter-agency memoranda, correspondence, notes and other documentation related to the processing of the FOIA/PA request; correspondence with the individuals or entities that submitted the requested records, including when those records might contain confidential business information or personal information; and copies of the requested records. Types of information in the records may include: requesters' and their attorneys' or representatives' names, addresses, telephone numbers, and TSA FOIA case numbers; names, office telephone numbers, and office routing symbols of TSA employees; and names, telephone numbers, and addresses of the submitter of the information requested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 44 U.S.C. 3101.

PURPOSES:

The system is maintained for the purpose of processing access requests and administrative appeals under the FOIA and access and amendment requests and appeals under the PA; for the purpose of participating in litigation arising from such requests and appeals; and for the purpose of assisting TSA in carrying out any other responsibilities under the FOIA or the PA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, territorial, tribal, local, international, or foreign agency or entity for the purpose of consulting with that agency or entity to assist TSA to make a determination regarding access to or amendment of information, or for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment of information.

(7) To a Federal agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision regarding access to or correction of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

(8) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and law suits involving matters over which TSA exercises jurisdiction.

(9) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(10) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(11) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To the DOJ, United States Attorney's Office, or other federal agencies for further collection action on any delinquent debt when circumstances warrant.

(13) To a debt collection agency for the purpose of debt collection.

(14) To the submitter or subject of a record or information to assist TSA in making a determination as to access or amendment.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Privacy Act information may be reported to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12), for the purpose of collecting a debt on behalf of the United States.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are on paper and/or in electronic form.

RETRIEVABILITY:

Records are retrieved by the name of the requester/appellant or the attorney or other individual representing the requester, or other identifier assigned to the request or appeal.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know; using locks, and password protection identification features. Classified information is appropriately stored in accordance with applicable requirements. TSA file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 14. Files may be retained from 2 to 6 years, depending on the type of file. For requests that result in litigation, the files related to that litigation will be retained for 3 years after final court adjudication.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Freedom of Information/Privacy Act Division, Office of Law Enforcement & Security Liaison, TSA Headquarters, West Tower, 10th Floor, TSA–20, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedures'' above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security's Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure'' and ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from those individuals who submit requests and administrative appeals pursuant to the FOIA and the PA; the agency records searched and identified as responsive in the process of responding to such requests and appeals; Departmental personnel assigned to handle such requests and appeals; other agencies or entities that have referred to TSA requests concerning TSA records, or that have consulted with TSA regarding handling of particular requests; and submitters or subjects of records or information that have provided assistance to TSA in making access or amendment determinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2).

DHS/TSA 009

SYSTEM NAME:

General Legal Records (GLR).

SECURITY CLASSIFICATION:

Sensitive, classified.

SYSTEM LOCATION:

This system of records is located in the Office of the Chief Counsel, Transportation Security Administration (TSA) Headquarters in Arlington, Virginia. Records will also be maintained at various TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TSA employees and former employees, other Federal agency employees, members of the public, individuals involved in litigation with TSA or involving TSA, witnesses, and to the extent not covered by any other system, tort and property claimants who have filed claims against the Government and individuals who are the subject of an action requiring approval or action by a TSA official, such as appeals, actions, training, awards, foreign travel, promotions, selections, grievances, delegations, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

To the extent not covered by another system, records relating to litigation by or against the U.S. Government (or litigation in which the U.S. Government is not a party, but has an interest) resulting from questions concerning TSA authority, criminal actions, claims, torts, employment and sex discrimination, Rehabilitation Act, personnel matters, contracts, foreclosures, actions against TSA officials, criminal actions, titles to real property, other civil matters, and records relating to requests for TSA records or the testimony of TSA employees in state law criminal or civil litigation in which TSA is not a party. Included are statements of claims, documentary evidence, copies of condemnation or foreclosure proceedings and decisions, lists of witnesses, supporting documents, correspondence, legal opinions and memoranda and related records. The system also includes claims by or against the Government, other than litigation cases, arising from a transaction with TSA, and documents related thereto, including demographic information, vouchers, witness statements, legal decisions, and related material pertaining to such claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C 7301; 5 U.S.C. 7501; 28 U.S.C. 1346(b), (c), 1402(b), 2401(b), 2412(c), 2671–80; 31 U.S.C. 3701, 3721; 42 U.S.C. 20003 *et seq.*; 44 U.S.C. 3101; 49 U.S.C. 114.

PURPOSES:

The system is maintained to assist attorneys in the Office of the Chief Counsel in providing legal advice to TSA management on a wide variety of legal issues; to respond to claims by employees, former employees, and other individuals; to assist in the settlement of claims against the government; to represent TSA during litigation, and to maintain internal statistics.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, state, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(9) To third parties during the course of an investigation into violations or potential violations of transportation security laws to the extent necessary to obtain information pertinent to the investigation.

(10) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

(11) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and law suits involving matters over which TSA exercises jurisdiction.

(12) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(13) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(14) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(15) To the Attorney General of the United States or his/her official designee, when information indicates that an individual meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by TSA to the Attorney General, or his/her designee, it shall be a routine use of the information in this system of records to furnish records or information to the national Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

(16) To the DOJ, United States Attorney's Office, or other federal agencies for further collection action on any delinquent debt when circumstances warrant.

(17) To a debt collection agency for the purpose of debt collection.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Privacy Act information may be reported to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12) collecting on behalf of the United States Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are on paper and/or in electronic form. Records that are classified are stored in accordance with applicable executive orders and statutes.

RETRIEVABILITY:

Records are retrieved by the name of an individual or by a case number.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have an official need for access in order to perform their duties and using locks and password protection identification features. Classified information is appropriately stored in secured safes in accordance with applicable requirements. During normal hours of operation, all records of the Office of the Chief Counsel are maintained in areas accessible only to authorized personnel of TSA. TSA file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

National Archives and Records Administration approval is pending for the records in this system. The records will be retained and disposed of in accordance with the applicable provisions of the records schedule for the Office of the Chief Counsel. Chief Counsel office files are generally retained from 3 to 15 years, depending on the type of file. Formal legal files and significant litigation files are retained permanently for eventual transfer to the National Archives of the United States.

SYSTEM MANAGER AND ADDRESS:

Director of Operations, Office of the Chief Counsel, TSA Headquarters, West Building, Floor 8, TSA–2 (Chief Counsel), 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedures'' above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security's Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure,'' and ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from Federal employees and former employees and other individuals involved in litigation or other action or matter in which TSA is a party or has an association. Information also is obtained from documents related to such litigation, action, or matter.

EXEMPTIONS CLAIMED FROM THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2).

DHS/TSA 012

SYSTEM NAME:

Transportation Worker Identification Credentialing (TWIC) System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

Various locations in the Philadelphia, PA/Delaware River and Los Angeles/Long Beach, California areas, including:

LOS ANGELES/LONG BEACH AREA

APL, 614 Terminal Way, Terminal Island, CA.

Crowley Marine Services, Inc., Berth 86, 300 S. Harbor Blvd, San Pedro, CA.

ICTF (Union Pacific Intermodal Container Transfer Facility), 2401 E. Sepulveda Blvd, Long Beach, CA.

LAX Security Badge Office, 7333 World Way West, Los Angeles, CA.

Long Beach Container Terminal, Inc., 1171 Pier F Avenue, Long Beach, CA.

Port of Long Beach, 925 Harbor Plaza, Long Beach, CA.

Port of Los Angeles, 425 S. Palos Verdes St., San Pedro, CA.

PHILADELPHIA AREA

Maritime Exchange for the Delaware River and Bay, 240 Cherry St., Philadelphia, PA.

Port of Wilmington, 1 Hausel Road, Wilmington, DE.

Packer Avenue Marine Terminal, Philadelphia, PA.

Holt Headquarters, P.O. Box 8268, Philadelphia, PA.

Beckett Street Marine Terminal, 2nd and Beckett Streets, Camden, NJ.

Philadelphia International Airport—Atlantic Aviation, Atlantic Aviation Services.

Philadelphia International Airport, 8375 Enterprise Ave., Philadelphia, PA.

Philadelphia North East Airport, 182 Pension Road, Philadelphia, PA.

Conoco Phillips Refinery, Trainer Refinery 4101 Post Road, Trainer, PA.

PMTA ILA Hiring Hall Profile, 3001 South Front Street, Philadelphia, PA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Transportation workers and individuals, and/or authorized visitors, participating in the Technology Evaluation and Prototype Phase of the TWIC Program who are authorized unescorted entry to secure transportation areas.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will contain a minimum amount of computerized information during the technology evaluation and prototype phases of TSA's pilot project. It is anticipated that the following records will be created and maintained for the duration of the test: (1) Individual's name, (2) other demographic data to include: address, phone number, social security number, date of birth, and place of birth, (3) administrative identification codes, unique card serial number (4) systems identification codes, (5) company/organization or affiliation, (6) issue date, (7) biometric data and digital photograph, (8) access level information, and (9) expiration date.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114; 49 U.S.C. 44903(g); 46 U.S.C. 70105.

PURPOSE(S):

In cooperation with transportation facility operators, to evaluate and test certain technologies and business processes in the technology evaluation and prototype phases of TSA's pilot project to develop a Transportation Workers Identification Credential to improve access control for transportation workers requiring unescorted access to secure areas of transportation facilities. Additionally, TSA will collect certain data elements to support the development and operation of site specific security plans at local transportation facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(2) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual as an employee or a contractor, or the issuance of a security clearance or license.

(3) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(4) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(5) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(6) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(7) To the General Services Administration and the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(8) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(9) To TSA contractors, agents, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(10) To third parties during the course of an investigation into violations or potential violations of transportation security laws to the extent necessary to obtain information pertinent to the investigation.

(11) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances or access to secured areas in transportation facilities when relevant to such employment, application, contract, the issuance of such credentials or clearances, or access to such secure areas.

(12) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints,

and law suits involving matters over which TSA exercises jurisdiction.

(13) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, bar code, magnetic stripe, optical memory stripe, disk, and integrated circuit chip.

RETRIEVABILITY:

Data records contained within bar codes, magnetic stripe, optical memory stripe, disk, and/or the card's integrated circuit chip may be retrieved by the employees' name, unique card number, or organization; paper records, where applicable, are retrieved alphabetically by name.

SAFEGUARDS:

Unauthorized personnel are denied physical access to the location where records are stored. For computerized records, safeguards established in accordance with generally acceptable information security guidelines via use of security codes, passwords, Personal Identification Numbers (PINs), etc.

RETENTION AND DISPOSAL:

Record disposition authority for these records is pending at the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Credentialing Program Office, TSA Headquarters, East Tower, 11th Floor, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address indicated above and specify (1) individual's name, (2) employer, (3) address where originally enrolled into the TWIC system, and (4) date of enrollment. Individuals requesting access must comply with Department of Homeland Security's Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Contact the system manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (*e.g.,* why it is inaccurate, irrelevant, incomplete, or not current).

RECORD SOURCE CATEGORIES:

TSA obtains information in this system from the individuals who are covered by the system and their employers or the transportation facility.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DHS/TSA 013

SYSTEM NAME:

Federal Flight Deck Officer Record System (FFDORS).

SECURITY CLASSIFICATION:

Classified, sensitive.

SYSTEM LOCATION:

Federal Flight Deck Officer (FFDO) Program records are maintained at the offices of the Transportation Security Administration (TSA) Headquarters in Arlington, Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) All individuals who volunteer to participate in the FFDO program, (2) FFDO program participants, *i.e.*, those volunteers who are accepted into the FFDO training program and deputized as FFDOs, and (3) former FFDO program participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes all records required in connection with an individual's voluntary participation in the program, including records associated with FFDO application, selection, training, participation, retention and requalification. FFDORS includes records about individuals who applied but were not accepted into the program. Such records may include, but are not limited to the following: (a) Volunteer forms prepared by applicants for program participation containing such information as work history, education, military service, certificates of specialized training, awards and honors; (b) copies of correspondence between the applicant and TSA, and between TSA and other agencies, applicant places of employment, and educational institutions, for the purposes of verifying information provided to TSA by the applicant; (c) the FD–258 Fingerprint card, investigative summaries, and compilations of criminal history record checks, to include administrative records and correspondence incidental to the background investigation process, obtained from various law enforcement authorities; (d) results of written cognitive and noncognitive assessments and information regarding how the volunteer form was rated, prepared by TSA employees or contract psychologists; (e) records regarding the TSA's final decision to accept or reject volunteers for the FFDO program for suitability or medical reasons, including records prepared by TSA employees, and responses to and results of approved psychological assessments or similar tests administered by TSA; (f) results of telephonic or in-person interviews with program volunteers, including summary recommendations regarding the individual's participation in the program, prepared by TSA employees; (g) records prepared by TSA employees related to the selection or rejection of volunteer applicants (to include records generated as a result of any administrative appeal of TSA's determination to reject an applicant), and records related to recertification and decertification; (h) records prepared by TSA employees related to training, including academic and firearms performance; and (i) records prepared by TSA employees related to requalification and deputation renewal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114, 44921.

PURPOSE(S):

The purpose of this system is to maintain records necessary for the assessment and acceptance of volunteers, and the training, participation and recertification of deputized volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the United States Department of Transportation and its operating administrations when relevant or necessary to (a) ensure safety and security in any mode of transportation; (b) enforce safety- and security-related regulations and requirements; (c) assess and distribute intelligence or law enforcement information related to transportation security; (d) assess and respond to threats to transportation; (e) oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities; (f) plan and coordinate any actions or activities that may affect

transportation safety and security or the operations of transportation operators; or (g) the issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

(2) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(3) To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To a Federal, State, local, tribal, territorial, foreign, or international agency, in response to queries regarding persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; or a threat to aviation safety, civil aviation, or national security.

(5) To the Department of State and other Intelligence Community agencies to further the mission of those agencies relating to persons who may pose a risk to transportation or national security; a risk of air piracy or terrorism or a threat to airline or passenger safety; a threat to aviation safety, civil aviation, or national security.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

(9) To third parties to the extent necessary to obtain information pertinent to the individual's fitness and qualifications for the FFDO program.

(10) To airport operators, aircraft operators, and maritime and land transportation operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

(11) To the Department of Justice (DOJ) in review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving matters over which TSA exercises jurisdiction.

(12) To the DOJ or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) TSA, or (b) any employee of TSA in his/her official capacity, or (c) any employee of TSA in his/her individual capacity where DOJ or TSA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and TSA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which TSA collected the records.

(13) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual.

(14) To the National Archives and Records Administration or General Services Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(15) To the Attorney General of the United States or his/her official designee, when information indicates that an individual meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by TSA to the Attorney General, or his/her designee, it shall be a routine use of the information in this system of records to furnish records or information to the national Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and in computer-accessible storage media. Records are also stored on microfiche and roll microfilm.

RETRIEVABILITY:

Records are retrieved by name, address, and social security account number or other assigned tracking identifier of the individual on whom the records are maintained.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know; using locks, alarm devices, and passwords; and encrypting data communications. TSA file areas are locked after normal duty hours and security personnel protect the facilities from the outside.

RETENTION AND DISPOSAL:

National Archives and Records Administration approval is pending for the records in this system.

SYSTEM MANAGERS AND ADDRESS:

Director of the Credentialing Program Office, TSA Headquarters, East Tower, 11th Floor, 601 S. 12th Street, Arlington, VA 22202–4220. FFDO Program Manager, Office of Training and Quality Performance, TSA Headquarters, East Tower, 12th Floor, TSA–12, TQP, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Managers identified above.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedures'' above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure,'' and ''Record Access Procedures'' above.

RECORD SOURCE CATEGORIES:

Information maintained in this system is primarily obtained from the FFDO volunteer form or derived from information the applicant supplied, reports from medical personnel on physical and psychological results of examinations, training records, and law enforcement and intelligence agency

record systems, and individuals interviewed as part of the background investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1), (k)(2) and (k)(6).

Issued in Arlington, Virginia, on August 8, 2003.

Susan T. Tracey,

Deputy Chief Administrative Officer.

[FR Doc. 03–20925 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Receipt of Applications for Permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by September 17, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: David E. Garza, San Antonio, TX, PRT–073546.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The application(s) was/were submitted to satisfy requirements of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Norman L. Delan, Jr., Fleetwood, PA, PRT–075014.

The applicant requests a permit to import a polar bear (Ursus maritimus) sport hunted from the Viscount Melville Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: July 25, 2003.

Lisa J. Lierheimer,

Policy Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–20943 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take of the Houston Toad

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Elizabeth Ott (Applicant) has applied for an incidental take permit (TE–074986–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 4.137-acre property on Highway 290, Bastrop County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received by September 17, 2003.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by written or telephone request to Clayton Napier, U.S. Fish and Wildlife Service, Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection, by written request or by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service Office, Austin, Texas. Data or comments concerning the application and EA/HCP should be submitted in writing to the Field Supervisor, U.S. Fish and Wildlife Service Office, Austin, Texas at 10711 Burnet Road, Suite 200, Austin, Texas 78758. Please refer to permit number TE–074582–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the U.S. Fish and Wildlife Service, Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057).

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the

purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: Elizabeth Ott plans to construct a single family residence, within 5 years, on approximately 0.5 acres of a 4.137-acre property on Highway 290, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 03–20988 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Issuance of Permits for Marine Mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit(s) subject to certain conditions set forth therein.

Marine Mammals

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
055331	Dennis B. Callender	68 FR 33179; June 3, 2003	July 17, 2003.
072383	Scott S. Snyder	68 FR 33734; June 5, 2003	July 17, 2003.

Dated: July 25, 2003.

Lisa J. Lierheimer,

Policy Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–20942 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Policy for Enhancement-of-Survival Permits for Foreign Species Listed Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service, (the FWS) announce a Draft Policy for ''Enhancement of Survival'' permits for foreign species listed under the Endangered Species Act of 1973, as amended (ESA). This policy would provide guidance under which we will consider the issuance of Section 10(a)(1)(A) enhancement-of-survival permits as incentives to encourage conservation of foreign-listed species in the wild. Permits to allow the import of foreign-listed species or their parts or products would only be considered in certain limited situations if such action enhances the survival of the species in the wild. Enhancement must be demonstrated through support of a substantive conservation program for that species in the range country with a positive benefit for the species and/or its habitat. The in-situ conservation actions envisioned by implementing this policy otherwise would not occur or would be significantly reduced, absent the issuance of permits to encourage range countries to develop and implement such programs or to encourage applicants within the United States to become active participants in range country conservation actions.

The ESA and existing regulations provide full authority for issuance of these permits. However, in the past we have generally chosen to limit these types of permits for ESA-listed foreign species. We now believe there could be a greater conservation benefit by providing for the import and export of carefully selected ESA-listed foreign species, or their parts and products, that are obtained from captive-breeding programs or well-managed conservation programs that limit removal from the wild and further promote and advance the conservation of the species within range countries.

This draft policy presents guidance to help the public understand the requirements for issuance of permits under the ESA. It is not intended to be prescriptive or to necessarily prohibit or allow any public or private activity. We seek public comment on this proposed draft policy.

DATES: Comments on the draft policy must be received by October 17, 2003.

ADDRESSES: Send any comments or materials concerning the Draft Policy for Enhancement-of-Survival Permits for Foreign Species to the Chief, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 (Telephone, 703–358–2093; fax, 703–358–2280; e-mail, *ManagementAuthority@fws.gov*).

Comments received will be made available to the public and become part of the file for this policy. You may examine comments and materials received during normal business hours at the above address in Arlington, Virginia. You must make an appointment to examine these materials.

FOR FURTHER INFORMATION CONTACT: Kenneth Stansell, Assistant Director, International Affairs. (Telephone, 202–208–6393).

SUPPLEMENTARY INFORMATION:

The Application of the Endangered Species Act to Foreign Species Conservation

Approximately 40 percent of all species listed under the ESA are foreign species whose natural range occurs outside the United States. Of these, approximately 80 percent are listed as endangered and 20 percent are listed as

threatened. Under the ESA's listing process, foreign and domestic species are treated equally, and the biological criteria used for determining the appropriate classification of threatened or endangered species are the same. However, most of the key conservation provisions of the ESA do not apply to foreign species. Habitat conservation planning mechanisms, recovery planning and implementation, most Section 7 consultations, and the Section 6 grant-in-aid program do not apply to ESA-listed foreign species. Even the fundamental conservation tool of prohibition of take (defined by the ESA as killing, capturing, collecting, harassing, and related activities) is limited to actions taken within the United States, the territorial seas of the United States, or on the high seas (*i.e.,* when committed by persons under the jurisdiction of the United States). In some situations, listing under the ESA may provide few, if any, additional benefits and may complicate the implementation of conservation initiatives under other international authorities, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The ESA specifically addresses foreign species under Sections 8 and 8A by providing the authority to allow for international convention implementation for CITES and to enter into other such treaties, and to otherwise cooperate with other countries for the purpose of conserving listed species. We have been able to use these authorities to encourage conservation of ESA-listed foreign species in certain countries where bilateral conservation programs have been developed, such as the Pakistan markhor example cited below. However, opportunities for such activities are limited in comparison to the larger number of ESA-listed foreign species and the many countries of the world in which they occur. Where these programs occur, range countries retain ultimate responsibility and authority for implementing conservation measures for their resident species.

Several other domestic measures, such as the African Elephant Conservation Act and the Wild Bird Conservation Act, work to encourage the conservation of foreign species also listed under the ESA. Under certain conditions, these statutes allow for the sustainable use and/or management of foreign species and recognize the limited, ancillary nature of the United States's ability to influence foreign species conservation.

Ultimately, the incentives that the United States can employ to encourage conservation activities for foreign species in other countries are limited, and we need to consider the use of every possible means available. In practical terms, one of the few available means for encouraging the conservation of foreign endangered species is through our decisions about whether to issue import permits. Permits can be issued for purposes of scientific research or the enhancement of survival for endangered species. For threatened species, permits can be issued for those same purposes as well as for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the ESA. The FWS goal of using the permits program to promote the long-term conservation of animals, plants, and their habitats is outlined in a recent publication, ''Leaving a Lasting Legacy'' (*http://permits.fws.gov*).

However, this permitting authority is not being fully used even though it is internationally recognized as one of the most effective conservation tools employed by CITES and other multilateral international agreements. Implementing this policy could encourage proactive conservation through the use of ''enhancement of survival'' findings to allow for imports that result from programs that significantly advance the conservation of a species within a given range country.

This concept is consistent with a Federal District Court's rationale in Defenders of *Wildlife, Inc.* v. *Watt* (1981), which upheld our decision to lift a prior ban on the importation of kangaroo parts and products in recognition of and in response to kangaroo conservation activities undertaken by Australia. The court found that the ''application of the Act to the kangaroo is necessarily collateral in nature, and the well-being of the species can only be ensured by the government of Australia.'' Further, the court ruled that ''while the Defendants have some resources at their disposal (*e.g.,* import restrictions), to effectuate the Act, the effectiveness of these resources depends on Defendants' ability to encourage Australia to protect the kangaroo.'' The potential for removal of the import ban then imposed under the ESA was an important aspect of these negotiations. It was used by the United States as an incentive for the imposition of a more rigorous and meaningful conservation program by Australia.

In Defenders, the court recognized that we had no control over the species or its natural habitat. Consequently, our ability to protect the kangaroo was limited to encouraging, or creating incentives for Australia to implement programs designed to ensure the species' well-being. Since the United States was an important market for kangaroo leather parts and products, our decision to lift the import ban was essential to encourage Australia to implement stricter conservation measures for kangaroos. Lifting the ban ultimately enhanced the status of the kangaroo in Australia and achieved the conservation objectives of the ESA for the species.

CITES and the Endangered Species Act as Conservation Tools

Many foreign species of concern to the United States are protected not only under the ESA but, also under CITES, a related but distinct conservation tool that regulates the international trade in certain wild plants and animals. Under CITES, species may be included, after approval by a two-thirds majority of CITES parties, in one of two Appendices, depending on the degree to which international trade impacts the survival of the species. Appendix I includes species ''threatened with extinction'' and imposes a general ban on trade for primarily commercial purposes. Appendix II allows controlled commercial trade in species that may become threatened with extinction without such controls. The import of an Appendix-I species is allowed if the purpose of the import is not primarily commercial and is not considered to be detrimental to the survival of the species. The import of an Appendix-II species is allowed if the species or its parts and products have been legally acquired and the export is not considered to be detrimental to the survival of the species. Thus, in all cases CITES requires that a ''no detriment'' finding be made for each species and country involved, and that appropriate CITES permits be issued.

The text of the CITES treaty provides for certain exemptions from the restrictions on commercial trade in Appendix-I species. Through more than 20 years of interpretation and implementation, the CITES parties have agreed that the treaty provides significant flexibility in determining what kinds of activities are considered to be detrimental to the survival of Appendix-I species. Article VII, paragraph 4, of the treaty provides that Appendix-I species meeting the CITES definitions of ''bred in captivity'' or ''artificially propagated'' may be treated as if they are listed in Appendix II, removing the ban on commercial trade. Likewise, under certain conditions and with established quotas, CITES allows

the export of sport-hunted trophies of Appendix-I species. While trade in such species may not be detrimental, and noncommercial trade can be allowed, the CITES treaty includes no requirement that such actions directly address the issue of enhancing the conservation of the species in the wild.

CITES also allows for the transfer from Appendix I to Appendix II of certain populations of species that can be demonstrated to benefit from ''ranching,'' for purposes of trade. A ranching operation must primarily benefit conservation of local populations of the species in the wild. Ranching involves the development of a management program for a specific population of an Appendix-I species, such as Nile crocodiles in Zimbabwe. Under this program, crocodile eggs are taken from the wild and hatched in captivity, and then some juvenile crocodiles are returned to the wild, while others are retained for commercial activity. This provides an incentive to protect and recover the wild population.

For native species listed under the ESA, the Congress has directed that they be automatically protected from take, in addition to prohibitions against commerce and trade. A foreign ESA-listed species is protected from importation into the United States and from foreign commerce by American citizens, but not from take by an American within a foreign country. This reflects the limited extent to which domestic U.S. law applies overseas. We have a very different degree of control, and thus a very different ability to influence conservation, in other sovereign countries that have their own national laws and policies.

The ESA also provides us with permitting authority in Section 10(a)(1)(A) to allow for otherwise prohibited activities for listed species. This authority allows for the issuance of permits ''for scientific purposes, or to enhance the propagation or survival'' of the listed species, as well as other purposes for threatened species. The net result is that the ESA imposes different and more stringent permitting standards for the importation of an endangered species than is required under Appendix I of CITES. Under CITES, the issue is whether the importation of an Appendix-I foreign species is not detrimental to the survival of the species. Under the ESA, the issue is whether the importation of a foreign species enhances the survival of the species.

Special Rule Authority for Foreign Species Listed as Threatened

The ESA allows for the promulgation of special rules under Section 4(d) for threatened species. Special rules can be used to authorize permits for activities consistent with the specific conservation needs of a species and may be less restrictive than for endangered species. Using this Section 4(d) authority, we have issued regulations to allow for the importation of sport-hunted trophies of certain foreign species listed as threatened. Likewise, we have lifted restrictions on the import of products from several foreign species listed as threatened when we determined that lifting the import ban would be an incentive for the development of a more rigorous conservation program in the range state.

Examples of the use of the special rule authority include African elephants and saltwater crocodiles. The African elephant is listed as threatened with a special rule that allows for the import of sport-hunted trophies where it can be clearly demonstrated that the range country has established and is implementing a conservation program using regulated sport hunting as a tool to enhance the survival of the species. Several species of salt water crocodiles from Africa and Australia are listed as threatened with a special rule that allows the import of crocodile parts and products from certain managed populations to encourage and help create an incentive for the development of more rigorous conservation programs in affected range countries.

The need exists to address legitimate conservation issues affecting foreign ESA-listed species on a case-by-case basis, without sole reliance on a reclassification from endangered to threatened status so that Section 4(d) may be applied. The benefits of an innovative conservation program should not be limited solely to species that have already met the standard for reclassification to threatened status. Based on our experience in international conservation efforts, we believe that in some limited situations, the only way for the United States to participate in programs to improve the status of an endangered species is to allow import of specimens, parts, or products from well-regulated taking programs, if the programs are designed to promote conservation of the species in the wild. By making such determinations on a case-by-case basis, we expect that issuance of such permits will facilitate further conservation efforts that could lead to reclassification of a species from endangered to threatened, or off the ESA list completely.

Enhancement Findings for Foreign Species Listed as Endangered

As indicated, we have been able to make the necessary ''no detriment'' CITES finding and the ESA's ''enhancement of survival'' finding for some activities that involve the direct removal of individuals from the wild for several foreign species listed in Appendix I that are also listed as threatened under the Act. While Section 10(a)(1)(A) of the ESA actually allows for the issuance of import permits to enhance the survival of foreign species listed as endangered, if the necessary enhancement finding can be made, we have historically interpreted the enhancement standard for foreign endangered species fairly narrowly. This practice has resulted in the routine denial of applications for the import of foreign species listed as endangered if the import would cause the killing of any individual in the wild, even in those situations involving a CITES-approved export program or other substantive conservation program. This has included the denial of applications for the import of parts and products from ranched populations, import of specimens meeting CITES requirements for specimens bred in captivity or artificially propagated for commercial purposes, sport-hunted trophies from countries with CITES-approved quotas for the species involved, and international movement of live zoological specimens.

The traditional, narrow approach to enhancement findings for actions that would result in the killing or removal from the wild of a foreign endangered species has precluded the use of the import permit as a proactive tool and incentive for foreign species conservation. We now believe that in some situations we could achieve a greater conservation benefit by providing for the importation of carefully selected foreign endangered species, or threatened species lacking (or in lieu of) a Section 4(d) rule, in exchange for a substantive and comprehensive conservation plan that offsets a limited take and further promotes the conservation of the species within the range country. An enhancement finding could be used as a more flexible proactive conservation tool to encourage the development of such substantive conservation plans for foreign species listed as endangered. Such an approach would help us expand the effectiveness of the ESA in meeting the growing habitat protection needs of foreign wildlife. Further, by

limiting the scope of such enhancement-of-survival findings to the development and implementation of foreign species management plans by the relevant range country, we can create a real incentive for foreign nations to establish programs that conserve both wildlife and habitat through the use of this approach in the most appropriate and compelling situations.

Examples of Potential Application

Several current examples serve to illustrate the potential application of this new proposed enhancement-of-survival policy. These include the Morelet's crocodile in Mexico; the Asian bonytongue fish in Indonesia, Thailand, and Malaysia; the wood bison in Canada; the markhor in Pakistan; and the Asian elephant in India, southeast Asia, and China. These examples represent species with similar listing status under the ESA but significantly different conservation issues and opportunities under the proposed policy.

Morelet's Crocodile

The Morelet's crocodile (*Crocodylus moreletii*) is a freshwater crocodile found along the Atlantic coast of Mexico, Guatemala, and Belize. It is listed as endangered throughout its entire range and is also listed in Appendix I of CITES. These listing actions were deemed warranted due to substantial population declines as a result of habitat loss and poaching. All three range countries have enacted laws protecting the Morelet's crocodile within their territories. However, given the current population status and continuing threats, it is doubtful that the species would qualify under the ESA for reclassification.

Part of Mexico's conservation program for this species allows a regulated removal of live specimens from the wild to establish parental stock for captive-breeding operations. This practice is part of a comprehensive conservation and management program for Morelet's crocodiles, which includes sustainable use of the species to encourage its conservation. As part of that program, a significant number of young are annually returned to the wild, and enhancement actions are focused on the wild populations. As a result of this management program, Mexico had been able to register its captive-breeding facilities with CITES to allow international commercial trade. In the case of specimens originating from CITES-registered breeding facilities, the species is treated as a CITES Appendix-II species, and, therefore, only a CITES export permit issued by the exporting country is necessary. However, this international trade is still excluded from the United States because of the species' endangered status under the ESA.

The FWS recognizes that crocodilian species managed as a sustainable resource in some cases can be utilized for commercial purposes while not adversely affecting the survival of the species. When certain positive conservation conditions have been met, we have acted to allow utilization and trade from managed populations of the American alligator (*Alligator mississippiensis*), Nile crocodile (*Crocodylus niloticus*), and saltwater crocodile (*Crocodylus porosus*). Under the proposed policy, we would consider allowing the importation of products produced by these captive-breeding facilities if they can demonstrate a clear enhancement of the wild population. The potential for trade with the United States, a major importer of leather products, could further encourage Mexico to intensify its conservation efforts for this species in the wild to meet the stricter import requirements under the ESA.

Straight-horned Markhor

The Pakistan population of straight-horned markhor (*Capra falconeri jerdoni*) is listed as endangered under the ESA and included in Appendix I of CITES. A sport-hunted export quota for Pakistan was approved by CITES in 1997. While reclassification of the subspecies within Pakistan under the ESA is not considered likely due to continuing concerns about the overall status of the subspecies, the Torghar Hills region of Pakistan has a successful community-based management program that has significantly enhanced the conservation of local markhor populations. Under this example, this proposed policy could allow consideration of applications for the importation of sport-hunted trophies from this population, if the necessary enhancement finding could be made, as an incentive to continue and expand the conservation program for this species.

In the early 1980s, local leaders of the Baluchistan Province became alarmed at the dramatic decline in markhor and other wildlife populations in the Torghar Hills region. The decline was attributed to a significant increase in poaching. In 1984 they sought assistance from professional wildlife biologists in the United States on the design of a scientifically based management program for the markhor and other species, and the Torghar Conservation Project was initiated. The project was simple. Local tribesmen were requested to refrain from hunting in exchange for being hired as salaried game guards to prevent poachers from entering the Torghar Hills region. Game guard salaries and other costs of the project would be defrayed entirely by trophy fees paid by foreign hunters to take a small, strictly controlled, annual quota based on the best biological information available on the status of the markhor and other wildlife species in the area.

Currently, the project employs more than 50 local game guards, protecting approximately 1,000 km^2 of habitat. The project has eliminated poaching in this core protection area, and, as a result, markhor populations, virtually extirpated by 1984, have increased steadily. Since 1994, the markhor population has doubled and is considered to be of adequate size and condition to sustain a small (1–2% of the population) annual trophy harvest. Systematic field surveys have been conducted in the region since 1994 as part of the management program, supported in part by the FWS through its Wildlife Without Borders-India program. The project was maintained informally until 1994, when an officially registered non-governmental organization, the Society of Torghar Environmental Protection (STEP), was established to administer the project. Currently participation in this program is limited to foreign hunters primarily from Europe. Allowing a limited number of U. S. hunters an opportunity to import trophies taken from this population could provide a significant increase in funds available for conservation and would provide a nexus to encourage continuation and expansion of the project into other areas.

Asian Bonytongue

The Asian bonytongue (*Scleropages formosus*) is a tropical freshwater fish native to Indonesia, Thailand, and Malaysia, and islisted as endangered under the ESA and included on Appendix I of CITES. Although the species was historically harvested for consumption, its demand for the aquarium pet trade, along with other factors such as habitat loss, resulted in significant declines throughout its range. Reclassification of the species under the ESA is not likely due to continuing concern for its overall status. However, since the greatest single threat to the species is illegal collection for the pet trade, captive propagation that results in a controlled legal supply of specimens could significantly reduce the pressure on wild populations. Additionally, the breeding of native species in captivity for commercial

purposes may, in some cases, facilitate the eventual release to the wild of a percentage of the progeny from such operations.

In 1986, efforts began on the development of captive propagation techniques for the Asian bonytongue. In 1992, the first captive-breeding facility was registered under the requirements of CITES, and legal exports began. There are currently 28 registered breeding facilities in these three countries, reportedly with an annual production level of around 300,000 fish. Each exported specimen is marked with a coded microchip to assist law enforcement efforts to help ensure that only legally produced fish are traded. The CITES requirement for certifying facilities as bred in captivity is designed to remove collection pressure on wild populations and ensure that trade is not detrimental to the survival of the species, but CITES does not require in-situ conservation projects.

Since the approval of the first captive-breeding facility, we have denied several permit applications for the import of captive-bred Asian bonytongue. As one of the world's largest importers of aquarium fish, the United States could play a significant role in encouraging conservation of the Asian bonytongue through the issuance of permits if we require, as a condition of issuance of an import permit, that the specimens are bred in captivity and, a program is established to conserve the species in the wild . Our willingness to consider allowing import of captive-bred fish under ''enhancement of survival'' permits could provide an incentive for development of new conservation programs.

Wood Bison

The wood bison (*Bison bison athabascae*), native to Canada, is currently listed in CITES Appendix II and as an endangered species under the ESA. Because the wood bison is an Appendix-II species, Canadian wildlife authorities are not required to establish a quota for the export of live or trophy animals. Therefore, Canada is actively managing their bison population with a variety of management techniques, including limited sport-hunting. The FWS is currently evaluating whether downlisting the species is warranted under the ESA; however, this process is time consuming. Under this proposed policy, if an enhancement finding could be made based on Canada's present management practices, a limited number of sport-hunted trophies and live animals could be imported to further the conservation and recovery of the species while the downlisting process continues. A significant demand exists for both live animals and sport-hunted trophies in the United States. By issuing a limited number of permits that would require continuing conservation of the species in the wild the species would benefit.

The free-ranging population of about 5,000 wood bison is restricted to 11 herds in the Canadian provinces of Manitoba, Alberta, British Columbia, Yukon, and the Northwest Territories. As of 2000, approximately 2,500 of the free-ranging animals were in 7 disease-free herds. There are also around 400 animals in the Elk Island and Hook Lake Salvage captive-held disease-free herds that will be used for restocking and recovery purposes. The remaining bison in four herds in the Wood Buffalo National Park area are not disease free. It is estimated that the provincial and First Nation herds (diseased and disease-free combined) will double by 2004 at the present rate of increase. The Canadian recovery program goal is the establishment of 4 free-roaming, disease-free herds of 400 animals each. The recovery team estimates this goal will be achieved by the end of 2003. Throughout Canada and the United States, 700 to 1,000 animals are in private ownership. There are no wild or free-ranging populations in the United States.

The provincial and First Nation herds are managed with consideration for the national wood bison objectives: (1) Re-establish viable, healthy, free-ranging populations where possible in the original range; (2) ensure the genetic integrity of wood bison; (3) restore healthy herds for long-term sustainable use (for rural communities); and (4) encourage long-term cooperative management programs in which rural communities and aboriginal people play an integral role. Both the genetic management of the herds and the community programs involve limited sport hunting of surplus animals.

Because of the current listing of wood bison under the ESA, we have not issued import permits for sport-hunted trophies. Under this proposed policy, however, we could take into account Canada's excellent management of the bison. If, by reviewing the management program that has been established by the Canadian Government and the First Nations, we can determine that the importation of sport-hunted trophies could further enhance the survival of the species, then we could consider the issuance of a limited number of permits. As with most conservation programs around the world, work is limited by the availability of funds to carry out the goals of the program. Allowing a limited number of imports of sport-hunted trophies and live animals into the United States could provide a significant increase in funds available for conservation of the species in the wild, and would provide a nexus to encourage continuation and expansion of the project into other areas.

Asian Elephant

The Asian elephant (*Elephas maximus*) is listed as endangered under the ESA and in Appendix I of CITES. The Asian elephant historically ranged throughout India, Southeast Asia, and China. However, due to extensive habitat loss and poaching, its numbers have been dramatically reduced and are restricted to isolated populations within its range. In many areas, the species has been extirpated. Given its current status, it is very unlikely that the species could be downlisted under the ESA. In addition, although the Asian elephant is provided the protection of listing in Appendix I, only a limited number of other activities under CITES contribute to ensuring the species' survival. While the listing of the species in Appendix I does control international trade, this listing provides little for the conservation for the species within its range. Under this proposed policy, the permitting process could contribute to the enhancement of the species through the consideration of the importation of live animals when linked with conservation efforts within the elephant's range.

The Asian elephant is one of the more recognized animals to people from around the world due to exposure to the species through circuses and zoos. The United States has a relatively large population of captive Asian elephants. However, captive breeding has not been very successful, and the breeding stock is getting old and may soon be unable to breed. While offspring, particularly first generation, have been born, second-generation offspring have not had reproductive success. Therefore, currently, given the breeding animals available, it would appear that the captive Asian elephant population within the United States will continue to decline. This decline has raised a significant demand among the zoo and circus community to obtain additional stock from Asia. In relation to this, the number of elephants available for export within Asia is increasing due to the capture of problem animals and the decline in the use of elephants for traditional labor, such as timber harvest. Many countries within the elephants' range are facing a crisis due to the inability to handle these ''surplus'' animals.

Through the implementation of this proposed policy, it would be possible to contribute to the species' survival in the wild. By providing an opportunity for facilities within the United States to apply for and obtain import permits for Asian elephants, on the grounds that the importation provides direct conservation benefits to the wild population, the ESA could be used to promote *in situ* conservation projects that are funded and supported by U.S. zoos and circuses. In addition, under this proposed policy, export of live animals or genetic material to promote captive breeding in other countries could also be tied to conservation work within the species' natural range.

Other Listed Species

The species in the above examples are all listed as endangered under the ESA, however, we believe that certain threatened species could also benefit from this proposed policy. While it is true that a significant number of permits issued for threatened species are issued for other purposes, the FWS has denied permits for enhancement for these species. This policy could be used to promote and encourage activities that would provide for *in-situ* conservation programs for threatened, as well as endangered, species.

Policy on Permits for Enhancement of Survival

1. What Is the Purpose of This Policy?

This policy expands the conditions under which we will consider the issuance of import permits under Section 10(a)(1)(A) of the Endangered Species Act (ESA), and under our existing regulations found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32 for enhancement of survival of foreign species listed under the ESA as endangered and threatened respectively. These permits would be available only in certain carefully limited situations where the range country and/or the applicants have established a substantive conservation program for the species and the import or export meets all relevant requirements and resolutions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The ultimate goal of permits issued under this policy would be to provide incentives to encourage developing countries to conserve foreign ESA-listed species and their habitats, and to promote in situ conservation efforts by applicants.

This policy would provide incentives recognizing and supporting those range countries that have demonstrated significant commitment to implementing conservation programs for endangered species. Under this policy the necessary permit finding of ''enhancement of survival'' under the ESA would take into consideration the overall net impact, both direct and indirect, of allowing the import or export of the species or its parts or products, as offset by the implementation of a conservation program for that species in the range country.

The listing of a foreign species under the ESA provides recognition of its plight and generally prohibits the import of the species or its products into the United States. When such import would involve take of animals from the wild or commercial trade, the prohibition on import may be in conflict with ranching or captive-breeding operations that have been authorized by CITES. The opportunities to influence actual species conservation in other countries are limited, since key provisions of the ESA, such as recovery, consultation, and prohibitions on take, do not apply overseas. The application of the ESA to foreign species, and thus the United States' ability to influence their conservation, is collateral in nature, with range countries retaining ultimate authority and responsibility for species conservation. Moreover, the effectiveness of those tools that the ESA does provide for foreign species—such as import restrictions—often depends on whether their use can help encourage the range country to protect the species.

In recent years many developing countries have seen sustainable-use programs as the way to conserve wildlife species and their habitats in the face of increasing competition with other land uses. We have used the flexibility provided for threatened species in Section 4(d) of the Act to adopt special rules allowing for imports of certain sport-hunted species, such as African elephants and leopards, and the import for commercial purposes of certain crocodile parts and products. Under this expanded policy, we will broaden this concept on a limited, case-by-case basis, through the issuance of Section 10(a)(1)(A) import permits for listed species—but only if the necessary enhancement-of-survival finding can be made, in addition to all of the findings required by the CITES treaty and any relevant resolutions adopted by CITES Parties for species also covered by CITES.

This policy would provide a mechanism to consider the issuance of permits under certain circumstances for carefully selected foreign ESA-listed species in response to a conservation plan that offsets any limited take from the wild and further promotes the conservation of the species. Such findings would serve to create a real incentive for foreign nations to establish programs that conserve both wildlife and their habitats. The policy limits the scope of such enhancement-of-survival findings to the development and implementation of management plans in the range country only in appropriate and compelling situations, and where applicants can show direct in-situ conservation benefit from the proposed activity. This policy would not apply to situations that were not fully consistent with CITES. It would also not apply where we have adopted or are developing a separate policy on import or export permits for a particular species (such as our Policy on Giant Panda Permits, published in the **Federal Register** on August 27, 1998; 63 FR 45839).

2. What Are the Permit Application Procedures and Issuance Criteria?

For consideration under this policy guidance, you must follow the current application process and issuance criteria as described in our regulations at 50 CFR part 17.22, for endangered species, and 50 CFR part 17.32, for threatened species. This application process is approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act; the OMB control number is 1018–0093.In applying the issuance criteria for applications to import a listed species or its parts or products, we may take into account how that action may relate to the implementation of a management program for that species in the range country, including carefully regulated sport hunting and commercial captive breeding and ranching, and whether the activity has been authorized under CITES, when so listed.

Consistent with the ESA and 50 CFR 17.22, notice of each application for a permit for endangered species will be published in the **Federal Register**. Each notice will invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application, prior to issuance of any enhancement-of-survival permit pursuant to this policy.

3. How Will This Policy Be Consistent With CITES Requirements and Resolutions or Range Country Management Plans?

For us to consider your permit application under this policy, *at least*

one of the following conditions must have been met:

a. The species (or certain populations of the species) is listed in CITES Appendix II, and all trade is in accordance with all requirements in CITES Article IV, as well as in accordance with any relevant resolutions adopted by the CITES Conference of the Parties; or

b. The species (or certain populations of the species) is listed in CITES Appendix I, and (1) sport-hunted trophies, or other specimens, are traded in accordance with all requirements in CITES Article III, as well as in accordance with all relevant resolutions and quotas adopted by the CITES Conference of the Parties and supported by the United States; or (2) commercial trade in ranched or captive bred specimens is in accordance with Article VII.4 of CITES and with any relevant clarifying resolutions and quotas adopted by the CITES Conference of the Parties; or

c. The species (or a certain population of the species) is covered under one or more conservation programs in the range country that have support of the relevant management authorities, and these programs contribute directly to enhance the survival of the species in the wild.

4. What Benefit to the Species Must Be Shown?

In addition to the requirements of Part 3 above, you must also provide sufficient information for us to be able to reasonably conclude that a conservation program has been established in the range country for the species that is likely to provide a net benefit to the conservation of the species if the import of such species or its parts or products is allowed into the United States. You must also demonstrate that the application meets all the issuance criteria found in our regulations at 17.22(a)(2) and 17.32(a)(2), which among other things require that ''. . . the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species . . .'' Inherent in this context is a substantial contribution to the conservation of the species in the wild, through direct or indirect means. Your application must involve an activity that meets the enhancement standard of Section 10(a)(1)(A) for any import finding for a listed species under the ESA, even in situations where such imports are not required to meet the CITES standard of ''no detriment.'' For example, this will include a determination that imports of ranched and captive-bred specimens not only meet the requirements of Part 3 of this policy, but also must be derived from a program that provides for conservation of the species in the wild.

A conservation program in the range country must be designed to enhance the survival of a species in a manner and at a level such that the objective of the program is either to maintain, or restore, biologically viable population levels for the long term. The conservation program would address relevant determinations of the productive capacity of the species and its ecosystem, to ensure that cumulative use does not exceed those capacities or the ability of the population to reproduce, maintain itself, and perform its role or function in its ecosystem. The sustainability of the population may be accomplished through the implementation of conservation strategies, consistent with the biological characteristics of the species and will take into account instances where limited biological data exist. All determinations will be made on a case-by-case basis for each species.

Required Determinations

Since the purpose of this draft policy guidance is to clarify existing regulatory authority and provide the public with an opportunity for us to consider issuance of permits for certain activities, we have determined that this policy would not result in significant costs of implementation to the Federal Government or the non-Federal program participants. We have also determined that the issuance of the proposed policy is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2 Appendix 1.10. Based on the Service's evaluation of the public comments received, if a determination is made that an environmental assessment is required in accordance with Departmental procedures, an environmental assessment will be prepared for public review.

Public Comments Solicited

We request comments on our Draft Policy on Enhancement of Survival Permits. Particularly sought are comments on the issue of the relationship of the ESA to foreign-listed species and ways in which the ESA can be used to encourage the conservation of such species in the range country. We will take into consideration the comments and any additional information received by the Service by date specified above in **DATES.**

Dated: June 27, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03–20941 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EU–24 1A; OMB Approval Number 1004–0029]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has sent a request to extend the current information collection to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On July 11, 2002, the BLM published a notice in the **Federal Register** (67 FR 45987) requesting comment on this information collection. The comment period ended on September 9, 2002. BLM received no comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be directed within 30 days to the Office of Management and Budget, Interior Department Desk Officer (1004–0029), at OMB–OIRA via facsimile to (202) 395–6566 or e-mail to *ORIA_DOCKET@omb.eop.gov.* Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning to the BLM, including whether the information will have practical utility;

2. The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumption we use;

3. Ways to enhance the quality, utility and clarity of the information we collect; and

4. Ways to minimize the information collection burden on those who are to

respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Color-of-Title: Conveyance Affecting Color or Claim of Title (43 CFR 2540).

OMB Approval Number: 1004–0029.

Bureau Form Number: 2540–1.

Abstract: The Bureau of Land Management (BLM) collects and uses the information to determine if an applicant meets the statutory requirements to the Color of Title Act and regulations. Any applicant who satisfied all requirements for a claim will receive a patent conveying clear title to the lands upon payment of the sale price of the lands.

Frequency: Once.

Description of Respondents: Individuals, groups, or corporations.

Estimated Completion Time: 1 hour.

Annual Responses: 11.

Application Fee Per Response: $10.00.

Annual Burden Hours: 11.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: July 23, 2003.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 03–21028 Filed 8–15–03; 3:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EU–24 1A; OMB Approval Number 1004–0011]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has sent a request to extend the current approved information collection to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Only July 11, 2002, the BLM published a notice in the **Federal Register** (67 FR 45985) requesting comment on this information collection. The comment period ended on September 9, 2002. BLM received no comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be directed within 30 days to the Office of Management and Budget, Interior Department Desk Officer (1004–011), at OMB–OIRA via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov.* Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of our estimates of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. Ways to enhance the quality, utility and clarity of the information we collect; and

4. Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Color-of-Title: Color-of-Title Tax Levy and Payment Record (43 CFR 2540).

OMB Approval Number: 1004–0011.

Bureau Form Number: 2540–3.

Abstract: The Bureau of Land Management (BLM) collects and uses the information to determine if an applicant meets the statutory requirements of the Color of Title Act and regulations. Any applicant who satisfied all requirements for a claim will receive a patent conveying clear title to the lands upon payment of the sale price of the lands.

Frequency: Once.

Description of Respondents: Individuals, groups, or corporations.

Estimated Completion Time: 1 hour.

Annual Responses: 11.

Application Fee Per Response: $10.00.

Annual Burden Hours: 11.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: July 23, 2003

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 03–21029 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EU–24 1A; OMB Approval Number 1004–0010]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has sent a request to extend the current approved information collection to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On July 11, 2002, the BLM published a notice in the **Federal Register** (67 FR 45984) requesting comment on this information collection. The comment period ended September 9, 2002. BLM received no comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be directed within 30 days to the Office of Management and Budget, Interior Department Desk Officer (1004–0010), at OMB–OIRA via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov.* Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the agency including whether the information will have practical utility;

2. The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

3. Ways to enhance the quality, utility and clarity of the information we collect; and

4. Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Color-of-Title: Conveyances Affecting Color or Claim of Title (43 CFR 2540).

OMB Approval Number: 1004–0010.
Bureau Form Number: 2540–2.
Abstract: The Bureau of Land Management (BLM) collects and uses the information to determine if an applicant meets the statutory requirements of the Color of Title Act and regulations. Any applicant who satisfies all requirements for a claim will receive a patent conveying clear title to the lands upon payment of the sale price of the lands.
Frequency: Once.
Description of Respondents: Individuals, groups, or corporations.
Estimated Completion Time: 1 hour.
Annual Responses: 11.
Application Fee Per Response: $10.00.
Annual Burden Hours: 11.
Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: July 23, 2003.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 03–21030 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW142165]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice or proposed reinstatement of terminated oil and gas lease.

SUMMARY: Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW142165 for lands in Fremont County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, Chief, Fluid Minerals Adjudication.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW142165 effective August 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 03–21143 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management Alaska

[AK–921–1410–BK–P]

Notice for Publication: Filing of Plat of Survey; Alaska

1. The plats of survey of the following described lands were officially filed in the Alaska State Office, Anchorage, Alaska, on the date indicated.

A plat representing the dependent resurvey of the south, east, north, and west boundaries, and portions of the subdivisional lines of Township 15 North, Range 3 East, Seward Meridian, Alaska, was accepted March 20, 2003, and was officially filed May 30, 2003.

A plat representing the survey of the First Guide Meridian East, through Township 15 North, between Ranges 4 and 5 East, and the south boundary of Township 15 North, Range 4 East, Seward Meridian, Alaska, was accepted March 20, 2003, and was officially filed May 30, 2003.

A plat representing the dependent resurvey of a portion of the east boundary, a portion of the south boundary, portions of the subdivisional lines, portions of the subdivision of section lines, portions of the remeanders, the survey of portions of the subdivision of section lines, and the meanders of unidentified islands within Township 16 North, Range 3 East, Seward Meridian, Alaska, was accepted March 20, 2003, and was officially filed June 4, 2003.

A plat representing the dependent resurvey of portions of the south boundary, portions of the subdivisional lines, and the survey of the First Guide Meridian East, through Township 16 North, between Ranges 4 and 5 East, portions of the subdivisional and subdivision of section lines, the south boundary, the boundary of Public Land Order No. 3324, and the meanders within Township 16 North, Range 4 East, Seward Meridian, Alaska, was accepted March 20, 2003, and was officially filed June 16, 2003.

A plat representing the survey of the First Guide Meridian East, through Township 17 North, between Ranges 4 and 5 East, the Fourth Standard Parallel North on the south boundary, and the north boundary, of Township 17 North, Range 4 East, Seward Meridian, Alaska, was accepted March 20, 2003, and was officially filed May 30, 2003.

These plats were prepared at the request of the Bureau of Land Management, Division of Conveyances.

2. These plats will immediately become the basic record for describing the land for all authorized purposes. This survey has been placed in the open files in the Alaska State Office and is available to the public as a matter of information.

3. All inquires relating to these lands should be sent to the Alaska State Office, Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599; 907–267–1403.

Daniel L. Johnson,

Chief, Branch of Field Surveys.

[FR Doc. 03–20982 Filed 8–15–03; 8:45 am]

BILLING CODE 1410–BK–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Pacific Region, Environmental Document Prepared for ExxonMobil Offshore Power System Repair (OSPR) Project

AGENCY: Minerals Management Service (MMS).

ACTIONS: Notice of Availability of Mitigated Negative Declaration/Environmental Assessment (MND/EA).

SUMMARY: The MMS and the Santa Barbara County Planning and Development Department (SBC) have jointly prepared a MND/EA for ExxonMobil's OSPR Project pursuant to the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

DATES: MMS and SBC completed the MND/EA on February 19, 2003. MMS issued a Finding of No Significant Impact (FONSI) on February 19, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. John Smith, Minerals Management Service, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, CA, 93010, telephone (805) 389–7833. The MND/EA is posted on the MMS Web site at *http://www.mms.gov/omm/pacific/*. A digital copy of the MND/EA on a

Compact Disk may be requested by calling 1–800–6–PAC–OCS (1.800.672.2627), or by sending a request to the above address.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and Findings for Outer Continental Shelf (OCS) oil and gas exploration and development activities and other operations on the Pacific OCS. ExxonMobil's OSPR Project involves replacing a failed power cable (17 miles) linking OCS Platform Heritage with the onshore Las Flores Canyon Processing Facility and installing a new cable (4 miles) between OCS Platforms Hondo and Harmony to provide redundancy in the event of a future cable failure. The MMS and SBC prepared a joint environmental document (MND/EA) for the OSPR Project to facilitate review of the project by regulatory agencies, the public, and other interested parties. The MND/EA examines the potential environmental effects of the OSPR project and presents MMS and SBC conclusions regarding the significance of those effects. Pursuant to CEQA, MND's are prepared to determine whether proposed projects have the potential to result in significant environmental effects. The MMS prepares EA's to determine whether proposed projects constitute a major Federal action that significantly affects the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds the project will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA. This notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: July 15, 2003.

Peter L. Tweedt,

Regional Manager, Pacific OCS Region, Minerals Management Service.

[FR Doc. 03–21036 Filed 8–15–03; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–496]

In the Matter of Certain Home Vacuum Packaging Machines; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and provisional acceptance of motion for temporary relief.

SUMMARY: Notice is hereby given that a complaint and motion for temporary relief were filed with the U.S. International Trade Commission on July 8, 2003, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Tilia, Inc. and Tilia International, Inc., both of San Francisco, California. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain home vacuum packaging machines by reason of infringement of claims 3, 4, 6, 24, 25, and 34 of U.S. Patent No. 4,941,310. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

The motion for temporary relief requests that the Commission issue a temporary limited exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of certain home vacuum packaging machines that infringe claim 34 of U.S. Patent No. 4,941,310 during the course of the Commission's investigation.

ADDRESSES: The complaint and motion for temporary relief, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket imaging system (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2571.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2003). The authority for provisional acceptance of the motion for temporary relief is contained in section 210.58, 19 CFR 210.58.

Scope of Investigation: Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on August 12, 2003, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain home vacuum packaging machines by reason of infringement of claims 3, 4, 6, 24, 25, or 34 of U.S. Patent No. 4,941,310 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) Pursuant to section 210.58 of the Commission's Rules of Practice and Procedure, 19 CFR 210.58, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, is provisionally accepted and referred to the presiding administrative law judge for investigation.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Tilia, Inc., 303 Second Street, North Tower, 5th Floor, San Francisco, CA 94107.

Tilia International, Inc., 303 Second Street, North Tower, 5th Floor, San Francisco, CA 94107.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Applica, Inc., 5980 Miami Lakes Drive, Miami Lakes, FL 33014.

Applica Consumer Products, Inc., 5980 Miami Lakes Drive, Miami Lakes, FL 33014.

ZeroPack Co., Ltd., 4Ra, 208, Sihwa Industrial Complex, 668–7 Songkok-Dong, Ansan-Si, Kyungki-Do, 425–836, Republic of Korea.

The Holmes Group, Inc., One Holmes Way, Milford, MA 01757.

The Rival Company, 800 E. 101st Terrace, Kansas City, MO 64131.

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge.

Responses to the complaint, the motion for temporary relief, and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 and 210.59 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13 and 210.59. Pursuant to 19 CFR 201.16(d), 210.13(a), and 210.59, such responses will be considered by the Commission if received not later than 10 days after the date of service by the Commission of the complaint, the motion for temporary relief, and the notice of investigation. Extensions of time for submitting the responses to the complaint, motion for temporary relief, and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint, the motion for temporary relief, and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: August 12, 2003.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–21031 Filed 8–15–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 11, 2003, and published in the **Federal Register** on April 2, 2003, (68 FR 16091), Novartis Pharmaceuticals Corporation, Attn: Security Department, Building 103, Room 335, 59 Route 10, East Hanover, New Jersey 07936, made application by renewal to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance listed below:

Drug	Schedule
Methylphenidate (1724)	II

The firm plans to produce bulk product and finished dosage units for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Novartis Pharmaceuticals Corporation to manufacture the listed controlled substance is consistent with the public interest at this time. DEA has investigated Novartis Pharmaceuticals Corporation to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed is granted.

Dated: July 30, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–21044 Filed 8–15–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,198]

Agere Systems, Inc., Allentown, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 1, 2003 in response to a worker petition filed by the International Brotherhood of Electrical Workers (IBEW), Local 1522, on behalf of workers at Agere Systems, Inc., Allentown, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no purpose and the investigation is terminated.

Signed in Washington, DC this 5th day of August, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21019 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of July and August 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

A. Increased imports of articles like or directly competitive with articles

produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign county of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Negative Determinations for Worker Adjustment Assistance

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A)(I.C.) (Increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–52,259; The Bindery, Inc., Cambridge, MN
TA–W–52,284; Fisher Pierce, Weymouth, MA
TA–W–52,123; Honeywell International, Specialty Materials, Birmingham, AL
TA–W–51,536; State of Alaska Commercial Fisheries Entry Commission Permit #S04K6143901
TA–W–52,083; Sweet Orr and Company, Madison, GA
TA–W–52,103; MR Dowel, Inc., Rumford, ME
TA–W–52,106; Better Methods Alexander, Inc., a wholly owned subsidiary of BMI Holdings, Inc., Paterson, NJ
TA–W–52,133; Auburn Machinery, Inc., Lewistown, ME
TA–W–52,148; Coho Resources, Inc., Dallas, TX

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–52,393; Keane, Inc., Cypress, CA
TA–W–52,322; deMarco California Fabrics, Inc., New York, NY
TA–W–52,313; Convergys Customer Management Group, Inc., Orem, UT
TA–W–52,160; AT&T Corporation, Pleasanton, CA
TA–W–52,082; Computer Sciences Corporation, workers employed at Pratt & Whitney, West Palm Beach, FL
TA–W–52,395; Cross Consulting Group, Inc., d/b/a Cross USA,Watford City, ND
TA–W–52,367; Honeywell, Millinocket, ME
TA–W–52,352; Computer Services Corporation, Financial Services Group, Austin, TX
TA–W–52,164; Castrol Industrial North America, Inc., Duluth, MN
TA–W–51,173; Ericsson, Inc., Brea, CA

The investigation revealed that criteria (a)(2)(A)(I.A) (no employment declines) have not been met.

TA–W–52,042; Wheatland Tube Co., Div. of The John Maneely Co., Sharon, PA
TA–W–52,423; Fishing Vessel (F/V) Kayla Marie C., Old Harbor, AK
TA–W–52,107; Phillips Plastics Corp., Medical Molding and Assembly, Menomonee, WI, A; Multi-Shot, Eau Claire, WI, B; Precision Decorating, Medford, WI, C; Short Run Solutions, New Richmond, WI, D; Design Development Center, Hudson, WI, E; Design Development Center—West, Sunnyvale, CA, F; Operations Center, Eau Claire, WI, G; Technology Center, Prescott, WI, H; Detroit Field Sales, Farmingham Hills, MI
TA–W–52,158; CDI Corporation Northwest, employed at Hewlett-Packard, Imaging and Printing Group, Corvallis, OR
TA–W–52,233; Fishing Vessel (F/V) Western Queen, Burlington, WA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of section 222 have been met.

TA–W–52,426; Gretag Imaging, Inc., Englewood, CO: July 28, 2002.
TA–W–52,235; Honeywell Nylon, Inc., Anderson, SC: July 7, 2002.
TA–W–52,112; Hooker Furniture Corp., Kernersville, NC: June 20, 2002.
TA–W–52,100; Magneti Marelli, Kingsport, TN: June 19, 2002.
TA–W–52,346; George F. Adams Co., Inc., Moscow, VT: July 18, 2002.
TA–W–52,337; Kaba High Security Locks, a subsidiary of Kaba Corp., including leased workers from The Agentry and MJ Barlow Staffing Agencies, Southington, CT: July 16, 2002.
TA–W–52,257; Stoneville Furniture Acquisition, Inc., a/k/a Stoneville Furniture Co., Inc., including leased workers of AY Staffing, Stoneville, NC: July 9, 2002.
TA–W–52,231; Salisbury Sportswear, Inc., Salisbury, PA: July 2, 2002.
TA–W–52,136; Fairchild Semiconductor Corp., a subsidiary of Fairchild Semiconductor Int'l, Inc., South Portland, ME: June 9, 2002.
TA–W–52,029; Medway Plastics Corp., including leased workers of Stratus Personnel and Personnel Plus, Long Beach, CA: May 14, 2002.
TA–W–51,962; Vibratech, Inc., Alden, NY: June 3, 2002.
TA–W–51,840; Mastergear, South Beloit, IL: May 20, 2002.
TA–W–51,616; Chandler's, Portland, ME: April 14, 2002.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–52,413; Honeywell International, Inc., Automation and Control Solutions-Sensing & Control, including leased workers of Manpower, Inc., Mars Hill, NC: July 21, 2002.

TA–W–52,368; Fasco Motors, Automotive Div., Hillsdale, MI: July 16, 2002.

TA–W–52,354 & A; Molex, Inc., Fiber Optics Div., Downers Grove, IL and Bolingbrook, IL: July 21, 2002.

TA–W–52,280; Stone County Ironworks, a/k/a Metal Arts, Inc., Mountain View, AR: May 6, 2002.

TA–W–52,461; Fishing Vessel (F/V) Alert, Veronia, OR: July 22, 2002.

TA–W–52,366; Marge Carson, Rosemead, CA: July 21, 2002.

TA–W–52,360; Coats North America, Coats American Sylvan Plant Div., Rosman, NC: July 18, 2002.

TA–W–52,351; Waterbury Companies, Inc., Randolph, VT: July 18, 2002.

TA–W–52,315; Murphy's Custom Canvas, Central Point, OR: July 14, 2002.

TA–W–52,312; Rotarex, Inc., North America, including Stopfill, Inc., Div. and Ceodux, Inc., Div. and including leased workers of Sperion (Ruggieri Enterprises), Manpower, Carol Harris Agency, and Select Personnel, Mt. Pleasant, PA: July 2, 2002.

TA–W–52,309; B.A.G. Corporation, Pennington Gap, VA: July 10, 2002.

TA–W–52,234; Kellwood Co., Menswear-Midwestern Div., Calhoun City, MS: June 26, 2002.

TA–W–52,219; Geo-Form, Inc., Girard, PA: June 20, 2002.

TA–W–52,170; Hill-Rom Co., Inc., a wholly owned subsidiary of Hill-Rom, Inc., a wholly owned subsidiary of Hillenbrand Industries, Batesville, IN: July 18, 2002.

TA–W–52,162; The Oilgear Co., Longview Div., Longview, TX: June 26, 2002.

TA–W–52,114; Kalpak USA, Hillside, NJ: May 23, 2002.

TA–W–52,011; Fishing Vessel (F/V) Nanesse, Skagway, AK: June 11, 2002.

The following certification has been issued. The requirement of upstream supplier to a trade certified primary firm has been met.

TA–W–52,317; Onamac Industries, Inc., Everett, WA: July 14, 2002.

I hereby certify that the aforementioned determinations were issued during the months of July and August. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 8, 2003.

Linda G. Poole,

Acting Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–21017 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,883]

Culp, Inc; Rossville Division, Chattanooga, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 28, 2003, in response to a worker petition filed on behalf of workers at Culp Inc., Rossville Division, Chattanooga, Tennessee.

The petition is a copy of petition number TA-W–51,355. That petition resulted in a negative determination issued on April 28, 2003. Since this petition is a duplicate, further investigation would serve no purpose and the investigation is terminated.

Signed at Washington, DC this 5th day of August 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21020 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,838]

Fishing Vessell (F/V) Windy Sea, Kodiak, AK; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 9, 2003, the petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed March 27, 2003, and published in the **Federal Register** on April 11, 2003 (68 FR 17831).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition was filed by the company official for workers producing salmon. The denial of TAA for the workers of F/V Windy Sea, Kodiak, Alaska, was based on the finding that the subject firm did not fish for salmon during 2002.

The petitioner, in the request for reconsideration, states that the worker group did not fish for salmon in 2002 because of the possibility of losing money due to intense foreign competition. As vessel owner, the petitioner explains that he and the crew would have lost money. The subject firm instead fished for halibut. The petitioner also provided information regarding his adjusted gross income, which included fishing halibut only in 2002, adding that fishing salmon in that year would not have increased income.

Since the petition was filed on behalf of workers producing salmon, and the workers did not fish for salmon during the relevant time period, the petition was denied.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 5th day of August, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21021 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,333]

Kline Iron and Steel Company, Inc., West Columbia, SC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 16, 2003, in response to a worker petition which was filed by a company official on behalf of workers at Kline Iron and Steel Company, Inc., West Columbia, South Carolina (TA–W–52,333).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 6th day of August, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21016 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,541]

Luzenac America, Inc., Windsor, VT; Notice of Negative Determination Regarding Application for Reconsideration

By application of July 7, 2003, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on May 23, 2003 and published in the **Federal Register** on June 19, 2003 (68 FR 36845).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Luzenac America, Inc., Windsor, Vermont engaged in the production of talc products, was denied because criteria (a)(2)(A)(IB) and (IIB) were not met. Production of talc products at the subject plant increased from 2001 to 2002 and from January through March of 2002 to the corresponding period of 2003, and the company did not shift production to a foreign source in this period.

In the request for reconsideration, the company official states that sales and production declines will occur in the near future in conjunction with a scheduled shift in production to Canada and a subsequent production shut down at the subject firm.

Regardless of imminent and certain sales and production declines, criterion (a)(2)(A)(I.B) requires an ''existing'' sales and/or production decline at the subject firm. Alternatively, workers might be eligible for TAA if the company had begun shifting production of like or directly competitive talc products to Canada. However, that event has not yet occurred and thus no shift of production is indicated in the relevant period of this investigation. Thus criterion (II.B) has not been met.

Should conditions change in the future, the company is encouraged to file a new petition on behalf of the worker group which will encompass an investigative period that will include these changing conditions.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 1st day of August, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21022 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,454]

Pillowtex Corporation, Scottsboro, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 4, 2003, in response to a petition filed by the Union of Needletrades, Industrial and Textile Employees (UNITE) on behalf of workers at Pillowtex Corporation, Scottsboro, Alabama.

The Union has requested that the investigation be terminated. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 8th day of August, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21015 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,049]

Raytheon Aircraft Company, Wichita, KS; Notice of Negative Determination Regarding Application for Reconsideration

By application of June 13, 2003, the International Association of Machinists and Aerospace Workers, District Lodge No. 70, requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on May 14, 2003, and published in the **Federal Register** on June 3, 2003 (68 FR 33196).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Raytheon Aircraft Company, Wichita, Kansas was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases

of imported small business jets. The company did not import small business jets, and workers are not separately identifiable by product line nor did the company shift production to a foreign source.

The union alleges that the company is importing components for the JATAPs trainer planes produced at the subject facility.

A company official was contacted in regard to these issues. As a result, it was revealed that aft fuses, ribsets and harnesses are being built by both a Greek manufacturer and at the Wichita facility for planes sold to both the U.S. government and the Greek government. The investigation further revealed that the foreign production has not affected production levels at the Wichita facility, have not resulted in layoffs at the subject facility, and represent a negligible percentage of overall plant production.

The union further appears to allege that the company is importing an electrical systems integrator from the Netherlands, and is importing other components from a foreign firm known as Folker Elmo.

Contact with the company revealed that components for the Hawker Horizon (a new midsize jet that is significantly more powerful and larger than planes currently produced at Raytheon) are being built by Folker Elmo in the Netherlands. The company official further clarified that this is the only production built in the Netherlands. Since this production has never been produced at the subject firm, and the final product is not like or directly competitive with those produced at the subject firm, this production has no bearing on subject firm workers' ability to meet the relevant criterion for TAA eligibility.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 1st day of August, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21018 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,468]

Union Underwear Co., Inc., a.k.a. Fayette Cotton Mills, Inc., Fayette, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 5, 2003, in response to a worker petition filed by a company official on behalf of workers at Union Underwear Co., Inc., a.k.a. Fayette Cotton Mills, Inc., Fayette, Alabama.

The petitioning group of workers is covered by an active certification issued on May 13, 2002 and which remains in effect (TA–W–41,349). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th day of August, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–21014 Filed 8–15–03; 8:45 am]

BILLING CODE 4510–30–P

MERIT SYSTEMS PROTECTION BOARD

Notice of Proposed New System of Records Under the Privacy Act of 1974

AGENCY: Merit Systems Protection Board.

ACTION: Notice of New System of Records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a, the Merit Systems Protection Board (Board) is publishing a notice proposing establishment of a new system of records. This new records system is the Emergency Contact Data Base System. These records are used by Board officials to identify individuals for Board officials to contact in the case of an emergency involving the employee or the employee's office. The information may also be used to contact flexiplace employees working away from Board offices regarding Board mission-related matters.

DATES: This system of records becomes effective as proposed, without further notice, on October 17, 2003, unless comments are received which would result in a contrary determination.

ADDRESSES: Comments may be mailed to the Merit Systems Protection Board, Office of the Clerk of the Board, 1615 M Street, NW., Washington, DC 20419, or faxed to the same address on 202–653–7130. Electronic mail comments may be sent via the Internet to *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: Arlin Winefordner, Office of the Clerk of the Board, 202–653–7200.

Dated: August 11, 2003.

Bentley Roberts,

Clerk of the Board.

SYSTEM NAME:

MSPB/INTERNAL–9, Emergency Contact Data Base System.

SYSTEM LOCATION:

Financial and Administrative Management, Merit Systems Protection Board (MSPB), 1615 M Street, NW., Washington, DC 20419.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of MSPB.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of information about employees of the Board, including: Name, organizational unit, work telephone number(s), home and cellular telephone number(s) and work-at-home schedule for employees working on flexiplace. It will also have the name, address, relationship, home and office telephone number(s), home and office cellular phone number(s), and home and office e-mail address of an individual(s) to contact in the event of a medical or other emergency involving the employee or the employee's office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1204.

PURPOSE:

These records are used by Board officials to identify individuals for Board officials to contact in the case of an emergency involving the employee or the employee's office. The information may also be used to contact flexiplace employees working away from Board offices regarding Board mission related matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

To locate a person or persons to contact in the event of an emergency involving the individual and/or the employee's office.

To disclose information to another Federal agency, to a court, or a party in litigation before a court, or in an administrative proceeding being

conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigation, prosecution, enforcement, or implementation of a statute, rule, regulation, or order, where the Board becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in Lotus Notes Domino Server in the HQ computer room, with standard password access security, connected to a local area network and a wide area network serving all offices of the Board.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Access to these records is limited to persons whose official duties require such access. Records are protected from unauthorized access through password identification procedures and other system-based protection methods.

RETENTION AND DISPOSAL:

Records in this system are maintained as long as the individual is an employee of the Board. Expired records will be destroyed by deleting.

SYSTEM MANAGER:

Director, Financial and Administrative Management, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Clerk of the Board and must follow the MSPB Privacy Act regulations at 5 CFR 1205.11 regarding such inquiries.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records should contact the Clerk of the Board. Such requests should be addressed to the Clerk of the Board, Merit Systems Protection Board, 1615 M St., NW., Washington, DC 20419. Requests for access to records must follow the MSPB Privacy Act regulations at 5 CFR 1205.11.

CONTESTING RECORD PROCEDURES:

MSPB employees may personally amend information in these records at any time. Individuals wishing to request amendment of their records under the provisions of the Privacy Act should contact the system manager. Individuals must furnish the necessary information for their records to be located, identified and updated.

RECORD SOURCE CATEGORIES:

Information is provided by the individual who is the subject of the record.

Merit Systems Protection Board

PRIVACY ACT STATEMENT

The information provided for the Emergency Contact Data Base System is relevant for the Board to maintain accurate information about its employees which is readily available to managers to conduct human resources management functions, and to locate and inform employees. The information collected will be for internal Board use only, unless a violation of local, State, or Federal law occurs which requires its use by law enforcement agencies, or litigation in a court of law requires release of information.

[FR Doc. 03–20827 Filed 8–15–03; 8:45 am]

BILLING CODE 7400–01–U

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Arizona Public Service Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 issued to Arizona Public Service Company (the licensee) for operation of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3, located in Maricopa County, Arizona.

The proposed amendments in the licensee's application dated November 7, 2002, as supplemented by letters dated April 25, July 10, and July 30, 2003, would revise TS 3.2.4, ''Departure From Nucleate Boiling Ratio (DNBR),'' TS 3.3.1, ''Reactor Protective System (RPS) Instrumentation—Operating,'' TS 3.3.3, ''Control Element Assembly Calculators (CEACs),'' and TS 5.4.1, ''Administrative Controls—Procedures.'' The proposed changes are to Limiting Conditions for Operation (LCOs), LCO Actions, LCO Surveillance Requirements, and the procedures used to modify the core protection calculator addressable constants. The amendments support the replacement of the Core Protection Calculator System (CPCS). The replacement CPCS will perform functionally identical safety-related algorithms as the existing CPCS, although on a newer platform, and the CPCS design function will remain unchanged. Because the replacement CPCS for each unit will be installed in refueling outages for the three units over at least a year, starting with the Unit 2 fall 2003 outage, the licensee has proposed to have the TSs contain both the current requirements and the new requirements with the phrases ''(Before CPC Upgrade)'' and ''(After CPC Upgrade)'' on the TSs to show which requirements apply to which case.

The application was noticed in the **Federal Register** on December 10, 2002 (67 FR 75868) for the changes to TSs 3.2.4, 3.3.1, and 3.3.3. Since that notice, the licensee has submitted its supplemental letter dated July 30, 2003, which provided an additional proposed change to TS 5.4.1, ''Administrative Controls—Procedures.'' This additional proposed change is related to the procedures used to modify the CPCS addressable constants.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Core Protection Calculator System (CPCS) is being replaced due primarily to parts obsolescence. The replacement CPCS will perform functionally identical safety-related algorithms as the existing CPCS, but on a newer platform. The CPCS design function will remain unchanged.

The physical location of the replacement CPCS will be the same as the existing CPCS in the auxiliary protective cabinets. Installation will occur during refueling outages when the system is not required for service. [The] majority of the testing will be performed prior to installation.

The CPCS is not an initiator of any analyzed accident, but is used for mitigation of a large number of anticipated operational occurrences and a small number of accidents. Since the CPCS is not an accident initiator, and the replacement CPCS is functionally unchanged, the CPCS replacement will not increase the probability of an accident.

The functionality of the existing CPCS safety related algorithms are replicated in the System Requirements Specification for the Common Q [Common Qualified] Core Protection Calculator System. The basic Common Q CPCS design concept was approved by NRC Safety Evaluation (SE), Acceptance For Referencing Of Topical Report CENPD–396–P, Rev. 01, ''Common Qualified Platform'' and Appendices 1, 2, 3 and 4, Rev. 01, dated August 11, 2000 (Ref. 2 [listed in the enclosure to the amendment request]), and there have been no significant functional changes to the design as presented. The requirements for response time and accuracy that are assumed in the Palo Verde Nuclear Generating Station (PVNGS) Updated Final Safety Analysis Report (UFSAR) accident analysis will continue to be met. Therefore, since the new [replacement] CPCS will be capable of performing the same safety-related functions within the same response time and accuracy as the existing CPCS, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The CPCS provides a monitoring and detection function and is not an initiator for any accident. The CPCS provides Reactor Protection System (RPS) trips on Low Departure from Nucleate Boiling Ratio (DNBR) and High Local Power Density (LPD) in response to calculations involving several input variables. It also provides a Control Element Assembly Withdrawal Prohibit (CWP) signal to the Plant Protection System (PPS), and provides indication and annunciation. The CPCS performs no other plant functions, and is not used to initiate any ESF [(Engineered Safety Feature)] functions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The [new] CPCS is a replacement for the existing CPCS. It will retain the same safety-related functionality as the existing CPCS. The equipment will be qualified in accordance with requirements described in the Palo Verde UFSAR.

The replacement CPCS will perform functionally identical safety-related algorithms as the existing CPCS, will trip in response to the same inputs with equivalent accuracy, and will meet the same four channel separation requirements. The only significant area of difference involves the platform. The Common Q platform uses a consistent set of qualified building blocks (Advant Controllers, Flat Panel Displays, Power Supplies, and Communication Systems) that can be used for any safety system application. For Palo Verde purposes, the only application of this platform at this time will be for use as a CPCS. The new platform will include improved human factors and fault tolerance within each CPCS channel.

In summary, the replacement CPCS performs the same functions as the existing CPCS, meets the qualification requirements of the existing CPCS, and meets the accuracy standards of the existing CPCS. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, APS [(the licensee)] concludes that the proposed amendments(s) present no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 17, 2003, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and available electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons

why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Kenneth C. Manne, Senior Attorney, Arizona Public Service Company, P.O. Box 52034, MS 7636, Phoenix, Arizona 85072–2034, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated November 7, 2002, as supplemented by letters dated April 25, July 10, and July 30, 2003, which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (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, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 12th day of August 2003.

For the Nuclear Regulatory Commission.

Jack Donohew,

Senior Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–20996 Filed 8–15–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Risk-Informed Inspection Guidance for Post-Fire Safe-Shutdown Inspections

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to issue a Regulatory Issue Summary (RIS) to inform all holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, of the risk-informed inspection guidance that will be used by NRC inspectors to perform future post-fire safe-shutdown associated guidance inspections. The NRC is seeking comment from interested parties on the clarity and utility of the proposed RIS and the draft technical input that will be used to develop inspection guidance. The NRC will consider the comments received in its final evaluation of the proposed RIS.

This **Federal Register** notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) under accession number ML032030584.

DATES: Comment period expires September 17, 2003. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop T6–D59, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to NRC Headquarters, 11545 Rockville Pike (Room T–6D59), Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Mark Henry Salley at (301) 415–2840 or by e-mail to *mxs3@nrc.gov.*

SUPPLEMENTARY INFORMATION:

NRC Regulatory Issue Summary 2003-XX: Risk-Informed Inspection Guidance for Post-Fire Safe-Shutdown Associated Circuit Inspections

Addressees

All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform addressees of the risk-informed technical input that will be used to develop inspection guidance used by NRC inspectors to perform future post-fire safe-shutdown associated circuit inspections.

Background Information

The regulatory requirements, guidance, and NRC staff's positions regarding post-fire safe-shutdown are contained in various NRC documents, including Title 10 of the Code of Federal Regulations, Section 50.48 (10 CFR 50.48), ''Fire Protection,'' and 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 3. Nuclear power plants (NPPs) operating prior to January 1, 1979, were backfit to 10 CFR Part 50, Appendix R, Section III G. NPPs licensed later were evaluated against Section 9.5–1 of NUREG–0800, Standard Review Plan (SRP). Regulatory Guide 1.189, ''Fire Protection,'' also provides regulatory guidance on post-fire safe shutdown. The extent to which these requirements or guidance are applicable to a specific NPP depends on the plant's age, commitments made by the licensee in establishing its fire protection plan, and license conditions regarding fire protection. One objective of the fire protection requirements and guidance is to provide reasonable assurance that fire-induced failures of associated circuits that could prevent the operation or cause maloperation of equipment necessary to achieve and maintain post-fire safe shutdown will not occur. As a part of its fire protection program each licensee performs an associated circuit analysis to evaluate and protect against these failures.

Each NPP licensee has a post-fire safe-shutdown program that was reviewed and approved by the NRC either as a part of the licensee's compliance with the 10 CFR part 50, appendix R, backfit or as a part of the initial operating licensing basis reviews. Licensees are required to maintain and update this analysis as a condition of their operating license. The NRC routinely inspects the post-fire safe-shutdown program as a part of the triennial fire protection inspection of each licensee.

Summary of the Issue

Beginning in 1997, the NRC staff noticed that a series of licensee event reports (LERs) identified plant-specific problems related to potential fire-induced electrical circuit failures that could prevent operation or cause maloperation of equipment necessary to achieve and maintain hot shutdown. The staff documented these problems in Information Notice 99–17, ''Problems Associated With Post-Fire Safe-Shutdown Circuit Analysis.'' Based on the number of similar LERs, the NRC determined the issue should be treated generically. In 1998, the NRC staff started to interact with interested stakeholders in an attempt to understand the problem and develop an effective risk-informed solution to the circuit analysis issue. Due to the number of different stakeholder interpretations of the regulations, the NRC decided to temporarily suspend the associated circuit portion of fire protection inspections. This decision is documented in an NRC memorandum from John Hannon to Gary Holahan dated November 29, 2000, (ML003773142). NRC also issued Enforcement Guidance Memorandum (EGM) 98–002, Revision 2 (ML003710123).

To address the differing interpretations of the regulations, the NRC contracted Brookhaven National Laboratory (BNL) to develop a post fire safe shutdown analysis letter report (ML023430533). This draft letter report provided a historical look at the essential elements of a post-fire safe-shutdown circuit analysis, regulatory requirements and NRC staff positions, successful industry implementations, and guidance for risk-informing the associated circuit analysis. During this period, the Nuclear Energy Institute (NEI) performed a series of cable functionality fire tests to be used in NEI's risk-informed guidance. Revision D, the latest revision of NEI 00–01, ''Guidance for Post-Fire Safe Shutdown Analysis,'' was issued in early 2003 (ML023010376). The results of the NEI cable functionality fire testing were reviewed by an expert panel. The purpose of this review was to develop risk insights into the phenomena of fire-induced failures of electrical cables. The Electric Power Research Institute (EPRI) coordinated this effort and issued the final report, ''Spurious Actuation of Electrical Circuits Due to Cable Fires: Results of an Expert Elicitation'' (Report No. 1006961, May 2002).

On February 19, 2003, the NRC conducted a facilitated, public workshop in Rockville, MD. The purpose of the workshop was to discuss, and gather stakeholder input on, proposed risk-informed post-fire safe-shutdown circuit analysis inspection guidance. Using the above-referenced documents as background, the goals of the workshop were to identify:

(1) The most risk-significant associated circuit configurations;

(2) other associated circuit configurations that require further research; and

(3) low-risk-significant associated circuit configurations.

The facilitated workshop was successful in meeting these goals. A complete transcript of the meeting is available in ADAMS (ML030620006).

The staff has completed drafting the technical input that will be used to risk-inform inspector guidance for the most risk-significant associated circuit configurations (Item 1), identified other configurations that require further research (Item 2), and performed confirmatory research to verify the low-risk-significant configurations (Item 3) (ML030780326).

In summary, the risk-informed inspection guidance will concentrate on associated circuits whose failure could cause flow diversion, loss of coolant, or other scenarios that could significantly impact the ability to achieve and maintain hot shutdown. The inspectors will pay particular attention to events that occur in the first hour. Inspectors will consider credible fire scenarios that could produce a thermal insult resulting in cable damage. The initial focus of the

inspectors will be on conductor-to-conductor shorts within a multiconductor cable, since risk insights gained from cable fire testing demonstrated that intra-cable shorting is the most probable cause of spurious actuations. Thermoplastic-cable-to-thermoplastic cable interactions are also highly probable and should be considered. To focus on the most risk-significant aspects, inspectors will assume a maximum of two concurrent spurious operations for each scenario evaluated. The details of this inspection are in the attached draft inspection guidance.

Backfit Discussion

This RIS requires no action or written response and is, therefore, not a backfit under 10 CFR 50.109. Consequently, the NRC staff did not perform a backfit analysis.

Federal Register *Notifications*

For some time the NRC staff has worked with NEI, members of the public, and other stakeholders to develop the technical input necessary to risk-informed the associated circuit inspection guidance referenced in this RIS. On February 19, 2003, the NRC staff held a facilitated public workshop in Rockville, MD, where public participation was solicited. A notice of the workshop was published in the **Federal Register** on December 27, 2002 (Vol. 67, No. 249, p. 79168).

The draft RIS including the draft inspection guidance was published in the **Federal Register** to solicit public comments.

Paperwork Reduction Act Statement

This RIS does not request any information collection.

Attachment: Draft Guidance for Risk-Informing NRC Inspection of Associated Circuits

Background

In 1997, the NRC noticed that a number of licensee event reports (LERs) identified plant-specific problems related to potential fire-induced electrical circuit failures that could prevent operation or cause maloperation of equipment necessary to achieve and maintain hot shutdown in the event of a fire. The staff documented this information in Information Notice 99–17, ''Problems Associated With Post-Fire Safe-Shutdown Circuit Analysis.'' On November 29, 2000, inspection of associated circuits was temporarily suspended (ML003773142). During this period, the Nuclear Energy Institute (NEI) developed NEI 00–01, ''Guidance for Post-Fire Safe Shutdown Analysis'' Rev. D (ML023010376). The staff contracted Brookhaven National Laboratory (BNL) to develop a post-fire safe shutdown analysis guidance letter report (ML023430533). The Electric Power Research Institute (EPRI) assembled an expert panel and issued ''Spurious Actuation of Electrical Circuits due to Cable Fires: Results of an Expert Elicitation'' (Report No. 1006961, May 2002). Using the above-referenced documentation as background, the NRC conducted a facilitated public workshop on February 19, 2003, in Rockville, MD. The transcript of the meeting is available in ADAMS (ML030620006). Based on the information above, especially the facilitated workshop discussions, the staff developed the technical input for draft risk-informed inspector guidance. This guidance, initially transmitted in a memorandum to Cynthia Carpenter from John Hannon dated March 19, 2003 (ML030780326), is essentially the same as the guidance provided below with two notable exceptions. First, additional technical review of the probability of hot-shorts indicated thermoplastic cable-to-cable interactions should have been located in Bin 1 rather than Bin 2. Second, the statement ''Inspectors will not consider the impact of degraded control room instrumentation and indication circuits that might confuse operators pending additional research'' can be easily misinterpreted and has been deleted. A new section on instrumentation has been added in place of this statement. These changes have been made in the following guidance.

Discussion

The discussion summarizes the general guidance that would be needed to develop an inspection procedure.

Basic Risk Equation

The risk due to associated circuits can be evaluated using the following basic risk equation:

Risk = (fire frequency) × (likelihood of fire effects & cable attributes that contribute to failure) × (likelihood of undesired consequences)

The three factors in this equation are defined as follows:

1. *Fire Frequency.* The fire frequency is based on a statistical analysis of nuclear power plant (NPP) operating experience. The fire protection significance determination process (SDP) provides a method and bases for estimating fire frequencies for plant areas. One unique aspect of circuit analysis is the potential need for evaluation of multiple areas (*i.e.*, areas through which a cable or common set of cables is routed).

2. *Likelihood of Fire Effects & Cable Attributes that Contribute to Failure.* There needs to be a credible fire threat in the area under review to damage the cable of concern. This threat may consist of *in situ* combustibles, or the actual or maximum allowable amount of transient combustibles as controlled by plant-specific procedures, or a combination thereof. The fire protection SDP provides methods and bases for the identification and analysis of these fire scenarios. The NRC has published fire dynamics tools (*i.e.*, Draft NUREG–1805) which can be used to approximate the fire and its effects when more than a qualitative analysis is necesaary. The cable attributes should also be considered in assessing the likelihood of cable failure. Failures due to thermal insult from the fire result from heating in the hot gas layer, immersion in the plume, immersion in the flame zone (direct flame impingement), or radiant heating. All modes of heat transfer should be considered as appropriate to a given fire scenario.

A. Thermoplastic Cables. Thermoplastic cables (typically non-IEEE 383 qualified) should be assumed to fail if exposed to the hot gas layer or plume temperatures of 425°F or greater for a minimum of 5 minutes. In the case of radiant heat transfer, the cable should be assumed to fail if exposed to a minimum 5kW/m^2 for 5 minutes. When a thermoplastic cable is within the flame zone of the fire (direct flame impingement) or in a cable tray that is burning, damage should be assumed to occur in 5 minutes.

B. Thermoset Cables. Thermoset cables (typically IEEE 383 qualified) should be assumed to fail if exposed to hot gas layer or plume temperatures of 700°F or greater for a minimum of 10 minutes. In the case of radiant heat transfer, the cable should be assumed to fail if exposed to a minimum 10kW/m^2 for 10 minutes. When a thermoset cable of concern is in the flame zone of the fire (direct flame impingement), or in a cable tray that is burning, damage should be assumed to occur in 10 minutes.

C. Cable Failure Modes. For multiconductor cables testing has demonstrated that conductor-to-conductor shorting within the same cable is the most common mode of failure. This is commonly referred to as ''intra-cable shorting.'' It is reasonable to assume that given failure, more than one conductor-to-conductor short will occur in a given cable. A second primary mode of cable failure is conductor-to-conductor shorting between separate

cables, commonly referred to as ''inter-cable shorting.'' Inter-cable shorting is less likely than intra-cable shorting. At this time, the following configurations should be considered:

• For any individual multiconductor cable (thermoset or thermoplastic), any and all potential spurious actuations that may result from intra-cable shorting, including any possible combination of conductors within the cable, may be postulated to occur concurrently regardless of number. However, as a practical matter, the number of combinations of potential hot shorts increases rapidly with the number of conductors within a given cable. For example, a multiconductor cable with three conductors (3C) has 3 possible combinations of two (including desired combinations), while a five conductor cable (5C) has 10 possible combinations of two (including desired combinations), and a seven conductor cable (7C) has 21 possible combinations of two (including desired combinations). To facilitate an inspection that considers most of the risk presented by postulated hot shorts within a multiconductor cable, inspectors should consider only a few (three or four) of the most critical postulated combinations.

• For any thermoplastic cable, any and all potential spurious actuations that may result from intra-cable and inter-cable shorting with other thermoplastic cables, including any possible combination of conductors within or between the cables, may be postulated to occur concurrently regardless of number.

• For cases involving the potential failure of more than one multiconductor cable, a maximum of two concurrent spurious actuations should be assumed. For cases where more than two concurrent spurious actuations can occur as the result of intra-cable shorting within a single multiconductor cable they should be considered. The consideration of more than two concurrent spurious operations in more than two cables will be deferred pending additional research.

• Inspectors will consider the potential spurious operation of a direct current (DC) circuit given failures of the associated control cables even if the spurious operation requires two concurrent hot shorts of the proper polarity (*e.g.*, plus-to-plus and minus-to-minus) provided the required source and target conductors are each located within the same multiconductor cable.

• The consideration of thermoset cable inter-cable shorts will be deferred pending additional research.

D. Instrumentation Circuits. Required instrumentation circuits are beyond the scope of this associated circuits guidance and must meet the same requirements as required power and control circuits. There is one case where an instrument circuit could potentially be considered as an associated circuit. If a fire-induced failure of an instrument circuit could interfere with the post-fire safe-shutdown capability, but not have a direct effect on systems and equipment needed to achieve and maintain hot shutdown, then the instrument circuit may be treated as an associated circuit and handled accordingly.

3. *Likelihood of Undesired Consequences.* The inspectors must assess the potential consequence of the associated circuit failure. The inspector should review the specific NPP process and instrumentation diagrams (P&IDs)[1] for flow diversions, loss of coolant, or other scenarios that could significantly impair the NPP's ability to achieve and maintain hot shutdown.[2] For the specific area under evaluation, the inspector may wish to consider components that could prevent operation or cause maloperation as the components of interest. When considering the potential consequence of such failures, the inspector should also consider the time at which the prevented operation or maloperation occurs. Failures that impede hot shutdown within the first hour of the fire tend to be most risk-significant in a first-order evaluation. Consideration of cold shutdown circuits will be deferred pending additional research.

Items To Be Deferred at This Time, Pending Additional Research

The following items are either considered of relatively low risk significance and/or are being deferred pending additional research:

• Inter-cable shorting for thermoset cables is considered to be substantially less likely than intra-cable shorting. Hence, the inspection of potential spurious operation issues involving inter-cable shorting for thermoset cables is being deferred pending additional research.

• Inter-cable shorting between thermoplastic and thermoset cables is considered less likely than intra-cable shorting of either cable type or inter-cable shorting of thermoplastic cables. The inspection of spurious actuation issues involving inter-cable shorting between thermoplastic and thermoset cables is therefore being deferred pending additional research.

• Pending further research, inspectors will not consider configurations involving three or more concurrent spurious operations involving more than three cables.

• Recent testing strongly suggests that a control power transformer (CPT) in a control circuit can substantially reduce the likelihood of spurious operation. The power output of the CPT relative to the power demands of the controlled device(s) appears critical. Pending additional research, inspectors may defer the consideration of multiple (*i.e.*, two or more) concurrent spurious operations due to control cable failures if they can verify that the power to each impacted control circuit is supplied via a CPT with a power capacity of no more than 150% of the power required to supply the control circuit in its normal modes of operation (*e.g.*, required to power one actuating device and any circuit monitoring or indication features).

• Recent testing strongly suggests that fire-induced hot shorts will likely self-mitigate (*e.g.*, short to ground) after some limited period of time. Available data remains sparse, but there are no known reports of a fire-induced hot short that lasted more than 20 minutes. This is of particular importance to devices such as air-operated valves (AOVs) or pressure-operated relief valves (PORVs) which return to their de-energized position upon mitigation of a hot short cable failure. Pending further research, inspectors should defer the consideration of such faults if they can verify that a spurious operation of up to 20 minutes duration will not compromise the ability of the plant to achieve hot shutdown.

Items Not To Be Considered at This Time in Inspections

The following items are considered of very low likelihood and/or low risk, and will not be considered in the risk-informed inspection process:

• Open circuit (or loss of conductor continuity) conductor failures will not be considered as an initial mode of cable failure. Note that cable shorting (*e.g.*, a short to ground) may result in an open circuit fault due to the tripping of circuit protection features.

• Inter-cable short circuits involving the conductors of an armored cable will not be considered. Such failures are considered virtually impossible unless the short involves the cable's grounded armoring.

• Inter-cable short circuits involving the conductors of one cable within a

[1] For NPPs that do not use P&IDs, the inspector will have to gather the same information from flow diagrams and cable routing/logic diagrams.

[2] Hot shutdown is defined in the NPP technical specifications.

conduit and the conductors of any other cable outside the conduit will not be considered. As with armored cables, such faults are considered virtually impossible. Note that intra-cable shorting for thermoplastic or thermoset cables and inter-cable shorting between thermoplastic cables inside a common conduit are possible.

• Inspectors will not consider multiple high-impedance faults on a common power supply. Although such faults have been considered using deterministic methods for critical safe-shutdown circuits, such faults are considered of very low likelihood and often can be readily overcome by manual operator actions.

• Inspectors will not consider three-phase, proper-polarity hot short power cable failures. In theory, such failures could cause a three-phase device to spuriously operate. However, such failures are considered of very low likelihood because the three distinct phases of power would have to align in the proper phased sequence to operate. Note that three-phase devices may still be subject to spurious operations due to faults in their related control and/or instrumentation circuits.

• Inspectors will not consider multiple proper-polarity hot shorts leading to the spurious operation of a DC motor or motor-operated device when the postulated failures involve only the DC device's power cables (*e.g.*, those cables that run from the motor control center (MCC) to the device). Such failures are considered unlikely because a shunt and a field require five separate conductors to have the correct polarity and sequence in order to operate. DC devices may still be subject to spurious actuation given failures in their control and/or instrument circuits.

Summary

In summary, the inspectors should focus on associated circuits whose failure could cause flow diversion, loss of coolant, or other scenarios that could significantly impair the ability to achieve and maintain hot shutdown, paying particular attention to those events that occur in the first hour. The inspectors should be able to develop credible fire scenarios that could produce a thermal insult resulting in cable damage. The inspectors should focus on conductor-to-conductor shorts within a multiconductor cable, since risk insights gained from cable fire testing have demonstrated that intra-cable shorting is the most probable cause of spurious actuations. The inspectors should also consider inter-cable shorting between thermoplastic cables. The inspectors should assume a maximum of two concurrent spurious operations for each scenario evaluated.

End

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 11th day of August, 2003.

For the Nuclear Regulatory Commission.

William D. Beckner,

Chief, Reactor Operations Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–20994 Filed 8–15–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26147; 812–12955]

The Managers Funds, et al.; Notice of Application

August 12, 2003.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

SUMMARY OF APPLICATION: Applicants seek to amend a prior order that permits applicants to enter into and materially amend investment advisory agreements with sub-advisers without shareholder approval.

APPLICANTS: The Managers Funds, Managers Trust I, Managers Trust II and The Managers Funds LLC.

FILING DATES: The application was filed on April 8, 2003 and amended on July 31, 2003.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 8, 2003, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, 40 Richards Avenue, Norwalk, CT 06854.

FOR FURTHER INFORMATION CONTACT: John Yoder, Attorney-Adviser, at (202) 942–0544, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. On October 11, 1995, the Commission issued an order (The ''Prior Order'') to The Managers Funds and The Managers Funds LLC, formerly The Managers Funds, L.P. (the ''Manager''),[1] under section 6(c) of the Act granting an exemption from section 15(a) of the Act and rule 18f-2 under the Act.[2] The Prior Order permits the Manager, on behalf of each series of The Managers Funds (each, a ''Fund''), to enter into and materially amend investment advisory agreements with sub-advisers (each a ''Sub-Adviser'' and, collectively, the ''Sub-Advisers'') without receiving shareholder approval.

2. Applicants seek to amend the Prior Order to extend the exemptive relief granted under the Prior Order to Managers Trust I and Managers Trust II and each of their series (included in the term ''Fund''). Applicants also request that the relief be extended to any other existing or future registered open-end management investment company or series thereof that (a) Is advised by the Manager or any entity controlling, controlled by, or under common control

[1] The Managers Funds LLC, a Delaware limited liability company which serves as investment adviser to each of the named applicants, is the successor to the business of The Managers Funds, L.P., a Delaware limited partnership, effective April 1, 1999.

[2] Investment Company Act Release Nos. 21354 (Sept. 13, 1995) (notice) and 21412 (Oct. 11, 1995) (order).

with the Manager (included in the term ''Manager''), (b) uses the multi-manager structure described in the application for the Prior Order, and (c) complies with the terms and conditions of the Prior Order, as amended by the requested order (included in the term ''Fund'').[3] If the name of any Fund contains the name of a Sub-Adviser, the name of the Manager will precede the name of the Sub-Adviser.

3. Applicants agree that any order granting the requested relief will be subject to the conditions in the Prior Order, except that conditions 3 and 4 of the Prior Order will be modified as follows to reflect recent Commission precedent:

3. Within 90 days of the hiring of a new Sub-Adviser, the Manager will furnish shareholders of the applicable Fund all information about the new Sub-Adviser that would be included in a proxy statement. To meet this condition, the Manager will provide shareholders of the applicable Fund with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

4. Each Fund's prospectus will disclose the existence, substance, and effect of the requested order. In addition, each Fund will hold itself out as employing the management structure described in the application. The prospectus will prominently disclose that the Manager has ultimate responsibility, subject to oversight by the Trustees, to oversee the Sub-Advisers and recommend their hiring, termination and replacement.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–20956 Filed 8–15–03; 8:45 am]

BILLING CODE 8010–01–P

[3] The Managers Funds, Managers Trust I and Managers Trust II are the only entities that currently intend to rely on the requested order.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48318; File No. S7–24–89]

Joint Industry Plan; Solicitation of Comments and Order Granting Summary Effectiveness to Request to Extend Operation of the Reporting Plan for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, Submitted by the National Association of Securities Dealers, Inc., the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the Pacific Exchange, Inc., the American Stock Exchange LLC, and the Philadelphia Stock Exchange, Inc.

August 12, 2003.

I. Introduction and Description

On August 8, 2003, the Cincinnati Stock Exchange, Inc. (''CSE'') on behalf of itself and the National Association of Securities Dealers, Inc. (''NASD''), the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Stock Exchange, Inc. (''CHX''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''PHLX'') (hereinafter referred to collectively as ''Participants''),[1] as members of the operating committee (''Operating Committee'' or ''Committee'') of the Plan submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') a request to extend the operation of the Plan and also to extend certain exemptive relief as described below.[2]

The Nasdaq UTP Plan governs the collection, processing, and dissemination on a consolidated basis of quotation and last sale information for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq Stock Market, Inc. (''Nasdaq'') securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Nasdaq securities. Currently, the Plan is scheduled to expire on August 19, 2003.

This order grants summary effectiveness, pursuant to Rule 11Aa3–2(c)(4) under the Securities Exchange Act of 1934 (''Act''),[3] to the request to extend operation of the Plan and to the request to extend certain exemptive relief (''Date Extension'').[4] Pursuant to Rule 11Aa3–2(c)(4) under the Act,[5] the Date Extension will be effective summarily upon publication in the **Federal Register** on a temporary basis not to exceed 120 days.

II. Exemptive Relief

While both Nasdaq and the NASD operate under the umbrella of a single Plan Participant, the submission of two distinct best bids and offers (''BBOs'') could be deemed inconsistent with Section VI.C.1 of the Plan.[6] Pursuant to the 13th Amendment of the Plan and Rule 11Aa3–2(a),[7] Nasdaq cannot be granted Plan Participant status until it is registered as a national securities exchange. While Nasdaq submits a distinct BBO from the NASD and until Nasdaq is registered as a national securities exchange, the NASD will submit quotes to the Plan's Securities Information Processor (''SIP'') in a manner different than specified in Section VI.C.1. of the Plan and, thus, in conflict with Commission Rule 11Aa3–2(d).[8]

[1] The CSE was elected chair of the Operating Committee for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''Nasdaq UTP Plan'' or ''Plan'') by the Participants.

[2] *See* letter from Jeffrey T. Brown, Chairman, Plan Operating Committee, to Jonathan G. Katz, Secretary, Commission, dated August 8, 2003.

[3] 17 CFR 240.11Aa3–2(c)(4).

[4] As discussed in the order granting partial temporary approval of Amendment No. 13 to the Plan, *see* Securities Exchange Act Release No. 46729 (October 25, 2002), 67 FR 66685 (November 1, 2002) (''Partial Approval''), proposed amendments to the Plan had been segregated into four categories: (1) Category 1, ''Effective Upon Nasdaq's Exchange Registration;'' (2) Category 2, ''Effective Upon Launch of the Internal SIP;'' (3) Category 3, ''Effective Upon End of Parallel Period—Elimination of the Legacy SIP;'' and (4) Category 4, ''Timing Not An Issue.'' Through the Partial Approval, the Commission approved the Category 2, 3, and 4 amendments on a pliot basis, but did not approve the Category 1 amendments. Therefore, the Plan the Commission extends today is the Plan, as modified, by all changes previously approved. In the Partial Approval, the Commission explicitly noted its intention to address the Category 1 amendments through separate action when the Commission acts on the Nasdaq exchange registration application. This order does not approve the Category 1 amendments and the Commission reiterates its intent to act upon the Category 1 amendments through separate action in conjunction with the Nasdaq exchange registration application.

[5] 17 CFR 240.11Aa3–2(c)(4).

[6] Section VI.C.1. of the Plan, as approved by the Operating Committee in the 13th Amendment, states that ''[t]he Processor shall disseminate on the UTP Quote Data Feed the best bid and offer information supplied by each Participant, including the NASD * * *.''

[7] 17 CFR 240.11Aa3–2(a).

[8] 17 CFR 240.11Aa3–2(d). Commission Rule 11Aa3–2(d) requires a self-regulatory organization participant of national market system plan to comply with the terms of that plan.

As discussed at length in the notice of the 13th Amendment,[9] the Commission had determined to relieve the potential conflict among the SuperMontage approval order,[10] Rule 11Aa3–2,[11] and the Plan, by granting the NASD an exemption under Rule 11Aa3–2(f)[12] from compliance with Section VI.C.1. of the Plan as required by Rule 11Aa3–2(d)[13] until such time as Nasdaq is registered as a national securities exchange. The Plan Participants have requested an extension of such exemptive relief.

III. Discussion

The Commission finds that extending the operation of the Plan is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, section 12(f)[14] and section 11A(a)(1)[15] of the Act and Rules 11Aa3–1 and 11Aa3–2 thereunder.[16] Section 11A of the Act directs the Commission to facilitate the development of a national market system for securities, ''having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets,'' and cites as an objective of that system the ''fair competition * * * between exchange markets and markets other than exchange markets.''[17] When the Commission first approved of the Plan on a pilot basis, it found that the Plan ''should enhance market efficiency and fair competition, avoid investor confusion, and facilitate surveillance of concurrent exchange and OTC trading.''[18] The Plan has been in existence since 1990 and Participants have been trading Nasdaq securities under the Plan since 1993.

The Commission finds that extending the operation of the Plan through summary effectiveness furthers the goals described above by preventing the lapsing of the sole effective transaction reporting plan for Nasdaq securities traded by exchanges pursuant to unlisted trading privileges. The Commission believes that the Plan is currently a critical component of the national market system and that the Plan's expiration would have a serious, detrimental impact on the further development of the national market system.

The Commission also finds that it is appropriate to grant summary effectiveness to the request to extend the exemption under Rule 11Aa3–2(f)[19] from compliance with Section VI.C.1. of the Plan as required by Rule 11Aa3–2(d).[20] The Commission believes that the Plan is a critical component of the national market system and that the requested exemptive relief is necessary to assure the effective operation of the Plan. The Commission believes that the requested exemptive relief extension is consistent with the Act, the Rules thereunder, and, specifically, with the objectives set forth in sections 12(f) and 11A of the Act[21] and Rules 11Aa3–1 and 11Aa3–2 thereunder.[22]

IV. Solicitation of Comments

The Commission seeks general comments on the extension of the operation of the Plan and the extension of exemptive relief. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendment that are filed with the Commission, and all written communications relating to the proposal 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 amendment will also be available for inspection and copying at the Office of the Secretary of the Committee, currently located at the CSE, One Financial Place, 440 South LaSalle St., Suite 2600, Chicago, IL 60126. All submissions should refer to File No S7–24–89 and be submitted by September 8, 2003.

V. Conclusion

It is therefore ordered, pursuant to sections 12(f) and 11A of the Act[23] and paragraph (c)(4) of Rule 11Aa3–2[24] thereunder, that the operation of the Plan be, and hereby is, extended and that certain exemptive relief also be extended both for a period not to exceed 120 days from the date of publication of this Date Extension in the **Federal Register**.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–21035 Filed 8–15–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48295; File No. SR–CSE–2003–08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to Its Schedule of Fees

August 7, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 21, 2003, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which the CSE has prepared. The CSE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby proposes to amend its schedule of fees to address recent developments in the cost of doing

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[9] *See* Securities Exchange Act Release No. 46139 (June 28, 2001 [sic]), 67 FR 44888 (July 5, 2002) (''13th Amendment Notice'').

[10] *See* Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001).

[11] 17 CFR 240.11Aa3–2.

[12] 17 CFR 240.11Aa3–2(f).

[13] 17 CFR 240.11Aa3–2(d).

[14] 15 U.S.C. 78l(f). The Commission finds that extending the Plan is consistent with fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act. The Commission has taken into account the public trading activity in securities traded pursuant to the Plan, the character of the trading, the impact of the trading of such securities on existing markets, and the desirability of removing impediments to, and the progress that has been made toward the development of a national market system.

[15] 15 U.S.C. 78k–1(a)(1).

[16] 17 CFR 240.11Aa3–1 and 17 CFR 240.11Aa3–2.

[17] 15 U.S.C. 78k–1(a).

[18] *See* Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990).

[19] 17 CFR 240.11Aa3–2(f).

[20] 17 CFR 240.11Aa3–2(d).

[21] 15 U.S.C. 78l(f) and 15 U.S.C. 78k–1.

[22] 17 CFR 240.11Aa3–1 and 11Aa3–2.

[23] 15 U.S.C. 78l(f) and 15 U.S.C. 78k–1.

[24] 17 CFR 240.11Aa3–2(c)(4).

[25] 17 CFR 200.30–3(a)(27).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

business on the CSE.[4] The text of the proposed rule change is below. Proposed additions are in italics and proposed deletions are in brackets.

* * * * *

Chapter XI Trading Rules

Rule 11.10 National Securities Trading System Fees

A. Trading Fees

(a)–(l) No change.

(m) DD Issue/Book Fees. Designated Dealers will be charged a monthly book fee based on the following incremental schedule:

Number of issues	Fee per issue
0 to 150	$[25]*30*.00
151 to 300	[15]*20*.00
301 to 500	[10]*15*.00
50[0]*1* and higher	[1]*2*.00

(n) No change to text.

(o) Technology Fee. Every Member of the Exchange shall be assessed a fee of $[750]*1,250*.00 per month to help offset technology expenses incurred by the Exchange.

(p)–(q) No change.

(r) Workstation Fee. Every member using the Exchange Workstation shall be charged $[500]*750*.00 per device per month.

B.–C. No change.

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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 its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing three amendments to the CSE Rules governing fees. The first proposed rule change amends subsection (m) to CSE Rule 11.10(A), Designated Dealer Issue/Book Fees. Subsection (m) currently provides that Designated Dealers will be charged a monthly book fee of $25 per each of the first 150 issues, $15 for each of the next 150 issues, $10 for each of the next 200 issues, and $1 for each remaining issue. The amended rule will provide that Designated Dealers will now be charged $30, $20, $15 and $2 per each of the respective increments. The second proposed rule change amends subsection (o) to CSE Rule 11.10(A), Technology Fee. Subsection (o) currently provides that every member be assessed a fee of $750 per month to help offset technology expenses incurred by the Exchange. The amended rule will provide that members be charged $1,250 per month. The third proposed rule change amends subsection (r) to CSE Rule 11.10(A), Workstation Fee. Subsection (r) currently provides that every member using the Exchange Workstation be assessed a fee of $500 per device per month. The amended rule will provide that members using the Workstation will now be charged $750 per device per month.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[5] and Section 6(b)(4)[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members on a pro rata basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed fee change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it establishes or changes a due, fee, or other charge imposed by the CSE. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to file number SR–CSE–2003–08 and should be submitted by September 8, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–20957 Filed 8–15–03; 8:45 am]

BILLING CODE 8010–01–P

[4] These costs include, for example, increased hardware and software expenses, increased capacity and technical support costs, and personnel-related expenses. Telephone call between Jennifer M. Lamie, Assistant General Counsel, CSE and Ian K. Patel, Staff Attorney, Commission (August 5, 2003).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b-4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4409]

Notice of Meeting; United States International Telecommunication Advisory Committee Information Meeting on the World Summit on the Information Society and the U.S. Preparatory Process

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings

pertaining to telecommunication and information issues.

The ITAC will meet to discuss the matters related to the World Summit on the Information Society (WSIS), which will take place in December 2003, including U.S. preparations for the WSIS. The meeting will take place on September 10, 2003 from 10:30 am to 12 pm at the Historic National Academy of Science Building. The National Academy of Sciences is located at 2100 C St. NW., Washington, DC.

Members of the public are welcome to participate and may join in the discussions, subject to the discretion of the Chair. Persons planning to attend this meeting should send the following data by fax to (202) 647–7407 or email to *worsleydm@state.gov* not later than 24 hours before the meeting: (1) Name of the meeting, (2) your name, and (3) organizational affiliation. A valid photo ID must be presented to gain entrance to the National Academy of Sciences Building. Directions to the meeting location may be obtained by calling the ITAC Secretariat at (202) 647–2592 or email to *worsleydm@state.gov.*

Dated: August 11, 2003.

Anne Jillson,

Foreign Affairs Officer, Department of State.

[FR Doc. 03–21051 Filed 8–15–03; 8:45 am]

BILLING CODE 4710–07–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Comments on the Caribbean Basin Economic Recovery Act and the Caribbean Basin Trade Partnership Act: Report to Congress

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for public comment.

SUMMARY: The Trade Policy Staff Committee (TPSC) is seeking the views of interested parties on the operation of the Caribbean Basin Economic Recovery Act (CBERA), as amended by the Caribbean Basin Trade Partnership Act (CBTPA) (19 U.S.C. 2701 *et seq.*). Section 212(f) of the CBERA, as amended, requires the President to submit a report to Congress regarding the operation of the CBERA and CBTPA (together commonly referred to as the Caribbean Basin Initiative, or CBI) on or before December 31, 2001, and every two years thereafter. The TPSC invites written comments concerning the operation of the CBI, including comments on the performance of each CBERA and CBTPA beneficiary country, as the case may be, under the criteria described in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA, as amended.

ADDRESSES: Submit comments by electronic mail (e-mail) to *FR0086@ustr.gov.* If unable to submit comments by e-mail, contact Office of the Americas, Office of the United States Trade Representative (USTR), 600 17th Street, NW., Room 223, Washington, DC 20508, at (202) 395–6135.

FOR FURTHER INFORMATION CONTACT: Andrea Gash Durkin, Director for Central America and the Caribbean, Office of the Americas, Office of the United States Trade Representative (USTR), 600 17th Street, NW., Room 223, Washington, DC 20508. The telephone number is (202) 395–6135 and the facsimile number is (202) 395–9675.

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit comments on any aspect of the program's operation, including the performance of CBERA and CBTPA beneficiary countries, as the case may be, under the criteria described in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA, as amended, and provided below. Other issues to be examined in this report include: the CBI's effect on the volume and composition of trade and investment between the United States and the Caribbean Basin beneficiary countries; its effect in advancing U.S. trade policy goals as set forth in the CBTPA.

The following countries are the current beneficiaries of the CBI. All are both CBERA and CBTPA beneficiary countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago and British Virgin Islands.

Eligibility Criteria for CBTPA Beneficiary Countries (Section 213(b)(5)(B) of CBERA)

In determining whether to designate a country as a CBTPA beneficiary country, the President must take into account the criteria contained in sections 212(b) and (c) of CBERA, and other appropriate criteria, including the following:

(1) Whether the beneficiary country has demonstrated a commitment to undertake its obligations under the WTO under or ahead of schedule and participate in negotiations toward the completion of the FTAA or another free trade agreement.

(2) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

(3) The extent to which the country provides internationally recognized worker rights including—

(I) The right of association;

(II) The right to organize and bargain collectively;

(III) A prohibition on the use of any form of forced or compulsory labor;

(IV) A minimum age for the employment of children; and

(V) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(4) Whether the country has implemented its commitments to eliminate the worst forms of child labor.

(5) The extent to which the country has met U.S. counter-narcotics certification criteria under the Foreign Assistance Act of 1961.

(6) The extent to which the country has taken steps to become a party to and implement the Inter-American Convention Against Corruption.

(7) The extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement, and contributes to efforts in international fora to develop and implement rules on transparency in government procurement.

Public Comment

Comments must be submitted, in English, to the Chairman of the Trade Policy Staff Committee, and must be received no later than October 2, 2003. Submissions in response to this notice will be available for public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' in large, bold letters at the top and bottom of each and every page of the document. The public version that does not contains business confidential information must also be clearly marked in large, bold letters at

the top and bottom of each and every page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL'').

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic mail (e-mail) submissions in response to this notice. Hand-delivered submissions will not be accepted. E-mail submissions should be single copy transmissions in English with the total submission including attachments not to exceed 50 pages in 12-point type and 3 megabytes as a digital file attached to an e-mail transmission. E-mail submissions should use the following subject line: ''2003 CBI Report.'' Documents must be submitted as either WordPerfect (''.WPD''), MSWord (''.DOC''), or text (''.TXT'') file. Documents should not be submitted as electronic image files or contain imbedded images (for example, ''.JPG'', ''PDF'', ''.BMP'', or ''.GIF'') as these type files are generally excessively large. E-mail submissions containing such files may not be accepted. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ × 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, in addition to the proper marking at the top and bottom of each page as previously specified, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the person or party (government, company, union, association, etc.) submitting the petition. Submissions by e-mail should not include separate cover letters or messages in the message area of the e-mail; information that might appear on any cover letter should be included directly in the attached file containing the submission itself. The electronic mail address for these submissions is *FR0086@ustr.gov.*

Public versions of all documents relating to this review will be available for review approximately 30 days after the due date by appointment in the USTR Public Reading Room, 1724 F Street NW., Washington, DC. Availability of documents may be ascertained, and appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 03–20954 Filed 8–15–03; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–491]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before September 8, 2003.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15857 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Annette Kovite (425–227–1262), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98055–4056; or Vanessa Wilkins (202–267–8029), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 12, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption.

Docket No.: FAA–2003–15857.

Petitioner: Northeast Engineering & Development Ltd.

Section of 14 CFR Affected: 14 CFR 25.561, 25.562, and 25.785(b).

Description of Relief Sought: To allow installation of medical stretchers on Airbus Model 330–200 series airplanes for transport of persons whose medical condition dictates such accommodation.

[FR Doc. 03–21107 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–50]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 12, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No. FAA–2001–9141.
Petitioner: Daedalus, Inc., d.b.a. Business Aviation Services.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Daedalus, Inc., d.b.a. Business Aviation Services to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. Grant, *7/30/2003, Exemption No. 7569A.*

Docket No.: FAA–2001–9862.
Petitioner: Bright Star Aviation.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Bright Star Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 7/29/2003, Exemption No. 7078B.*

Docket No.: FAA–2001–10606.
Petitioner: IHC Health Service, d.b.a. Life Flight of Salt Lake City, Utah.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit IHC Health Service, d.b.a. Life Flight of Salt Lake City, Utah, to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 7/29/2003, Exemption No. 7079B.*

Docket No.: FAA–2001–10790.
Petitioner: Air Logistics, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Air Logistics, LLC, to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 7/29/2003, Exemption No. 6736C.*

Docket No.: FAA–2001–11089.
Petitioner: The Collings Foundations.
Section of 14 CFR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit the Collings Foundation to operate its Boeing B–17, which is certified in the limited category, its Consolidated B–24, which is certified in the experimental category, and its North American B–25 and its Grumman TBM, both of which are certified in the limited category, for the purpose of carrying passengers on local flights for compensation or hire. *Grant, 7/17/ 2003, Exemption No. 6540F.*

Docket No.: FAA–2001–10356.
Petitioner: U.S. Army Aeronautical Service Agency.
Section of 14 CFR Affected: 14 CFR 91.177(a)(2) and 91.179(b)(1).
Description of Relief Sought/ Disposition: To permit properly equipped U.S. Army Special Operations Command aircraft to conduct low-level operations without complying with enroute minimum altitudes for flight under instrument flight rules (IFR) or direction of flight requirements for IFR enroute segment in uncontrolled airspace. *Grant, 7/8/ 2003, Exemption No. 7631B.*

Docket No.: FAA–2001–10984.
Petitioner: Air Tahoma, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Air Tahoma, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 7/2/2003, Exemption No. 7664A.*

Docket No.: FAA–2003–15512.
Petitioner: Security Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Security Aviation, Inc., operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 7/3/2003, Exemption No. 8090.*

Docket No.: FAA–2003–14921.
Petitioner: Indianapolis Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Indianapolis Aviation, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 7/3/ 2003, Exemption No. 7082B.*

Docket No.: FAA–2002–13932
Petitioner: Polar Air Cargo
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit Polar Air Cargo to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/2/2003, Exemption No. 8089.*

Docket No.: FAA–2002–13163
Petitioner: Ryan International Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit Ryan International Airlines, Inc., to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/2/2003, Exemption No. 8085.*

Docket No.: FAA–2000–8095
Petitioner: Eagle Canyon Airlines, Inc., d.b.a. Scenic Airlines
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit Eagle Canyon Airlines to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/2/2003, Exemption No. 8088.*

Docket No.: FAA–2000–7345
Petitioner: Chicago Express Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit Chicago Express Airlines, Inc., to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/2/2003, Exemption No.8086.*

Docket No.: FAA–2003–14356
Petitioner: TransMeridian Airlines
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit TransMeridian Airlines to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/2/2003, Exemption No.8087.*

Docket No.: FAA–2003–15167
Petitioner: Michael W. Higgins
Section of 14 CFR Affected: 14 CFR 121.383(c)

Description of Relief Sought/ Disposition: To permit Michael W. Higgins to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *Denial, 6/29/2003, Exemption No.8080.*

Docket No.: FAA–2003–15445
Petitioner: Sunworld International Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit Sunworld International Airlines, Inc., to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/14/2003, Exemption No.8094.*

Docket No.: FAA–2003–15444
Petitioner: America West Airlines
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii)
Description of Relief Sought/ Disposition: To permit America West Airlines to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/14/2003, Exemption No.8095.*

Docket No.: FAA–2003–14850.
Petitioner: Ariel Weiss.
Section of 14 CFR Affected: 14 CFR 61.89(a)(5) and 61.111(b).
Description of Relief Sought/ Disposition: To permit Ariel Weiss' student pilots to conduct solo flights between the Dutch islands of Saint Maarten, Saba, and Saint Eustatius in the Netherlands Antilles and the islands of Federation of St. Kitts and Nevis in the eastern Caribbean while fulfilling the cross-country requirements for a private pilot certificate. *Grant, 7/9/2003, Exemption No. 8092.*

Docket No.: FAA–2003–15482.
Petitioner: Wayne W. Galvani.
Section of 14 CFR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To permit Wayne W. Galvani to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *Denial, 7/16/2003, Exemption No. 8096.*

Docket No.: FAA–2002–13274.
Petitioner: China Airlines, Ltd.
Section of 14 CFR Affected: 14 CFR 61.77(a) and (b) and, § 62.23(a) and (b).
Description of Relief Sought/ Disposition: To permit China Airlines, Ltd., to add a U.S.-registered A300–600R airplane, to the list of aircraft previously authorized for China Airlines' airmen who operate certain U.S.-registered aircraft that are leased to a non-U.S. citizen, for carrying persons or property for compensation or hire, to be eligible for a special purpose pilot authorization and a special purpose flight engineer certificate, without holding a current foreign license or certificate issued by a foreign contracting state to the Convention on International Civil Aviation Organization. *Grant, 7/9/2003, Exemption No. 7980A.*

Docket No.: FAA–2003–15677.
Petitioner: Zdravko Podolski.
Section of 14 CFR Affected: 14 CFR 91.109(a).
Description of Relief Sought/ Disposition: To permit Zdravko Podolski to conduct certain flight instruction in Beechcraft Bonanza/Debonair aircraft equipped with a functioning throw-over control wheel instead of functioning dual controls. *Grant, 7/24/2003, Exemption No. 8101.*

Docket No.: FAA–2001–10045.
Petitioner: Mountain Air Cargo, Inc.
Section of 14 CFR Affected: 14 CFR 91.203(a)(b), 121.153(a)(1), and 135.25(a)(1).
Description of Relief Sought/ Disposition: To permit Mountain Air Cargo, Inc., to temporarily operate U.S.-registered aircraft in domestic airline operations under part 121 or part 135 without the airworthiness certificate onboard subject to certain conditions and limitations. *Grant, 7/23/2003, Exemption No. 7620A.*

Docket No.: FAA–2003–15567.
Petitioner: Express.Net Airlines.
Section of 14 CFR Affected: 14 CFR 91.203 and 121.153(a)(1).
Description of Relief Sought/ Disposition: To permit Express.Net Airlines to temporarily operate their U.S.-registered aircraft following incidental loss or mutilation of the certicate of airworthiness or registration, or both. *Grant, 7/23/2003, Exemption No. 8100.*

Docket No.: FAA–2003–15446.
Petitioner: JetBlue Airways Corporation.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/ Disposition: To permit JetBlue Airways Corporation to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 7/22/2003, Exemption No. 8099.*

Docket No.: FAA–2003–15643.
Petitioner: John L. Geitz.
Section of 14 CFR Affected: 14 CFR 91.109(a) and (b)(3).
Description of Relief Sought/ Disposition: To permit John L. Geitz to conduct certain flight training and to provide simulated instrument flight experience in certain Beech airplanes that are equipped with a functioning throw-over control wheel. *Grant, 7/18/2003, Exemption No. 8097.*

Docket No.: FAA–2001–9924.
Petitioner: Airbus North America Holdings, Inc.
Section of 14 CFR Affected: 14 CFR 61.77(a).
Description of Relief Sought/ Disposition: To permit Airbus North America Holdings, Inc., (Airbus) to allow pilots and flight engineers employed by Airbus to be eligible for issuance of special purpose pilot and flight engineer authorizations, under part 61 and 65, as appropriate, for the purpose of performing delivery flights of U.S.-registered airplanes between foreign countries and from a foreign country to the United States. *Grant, 7/17/2003, Exemption No. 6850C.*

[FR Doc. 03–21108 Filed 8–15–03; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held September 8–12, 2003 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at ENAV (Italian CAA training facilities), Centro di Formazione, Via delle Rupicle, 85, 00196 Rome, Italy.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.* (2) Mr. James E. Terpstra, Jeppesen, telephone (303) 328–4401.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

- September 8:
- Opening Plenary Session (Welcome and Introductory Remarks, Review/ Approval of Meeting Agenda, Review Summary of Previous Meeting).
- Presentations/Discussions.
- Subgroup 4 (Database Exchange Format).
- Resolution of Action Items.
- Feature catalogue review.

—Aerodrome database.

—Terrain database.

—Obstacle database.

- Presentations.
- September 9:
- Subgroup 4 (Continue previous day activities).
- Feature Catalogue Review.
- September 10:
- Subgroup 4 (Continue previous day activities).
- Metadata Review.
- September 11:
- Subgroup 4 (Continue previous day activities).
- Metadata Review.
- September 12:
- Closing Plenary Session (Summary of Subgroup 4, Assign Tasks, Other Business, Date and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 8, 2003.

Robert Zoldos,

FAA Systems Engineer, RTCA Advisory Committee.

[FR Doc. 03–21084 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 200: Modular Avionics (MA)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 200 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 200: Modular Avionics.

DATES: The meeting will be held on September 9–12, 2003 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC, 20036–5133.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 200 meeting. The agenda will include:

- September 9:
- Subgroup 1–3 Meetings.
- September 10:
- Opening Session (Welcome, Introductory and Administrative Remarks, Review Agenda, Review Summary of Previous Meeting).
- Approval of Summary of Meeting #3, RTCA Paper No. 136–03/SC200–012.
- Review action items.
- Briefings on Related Committees.
- Report on Subgroup Activities since Joint Meeting #3.
- Plenary Review of Document Outline.
- Path to Deliverable Document; Establishment of Editorial Team.
- September 11:
- Subgroups 1–3 Meetings.
- September 12:
- Report of Subgroup Meetings.
- Closing Session (Make Assignments, Date and Place of Next Meeting, Closing Remarks, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 1, 2003.

Robert Zoldos,

FAA Systems Engineer, RTCA Advisory Committee.

[FR Doc. 03–21085 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Birmingham International Airport, Birmingham, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY; The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Birmingham International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 159 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 17, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Walker Johnson, Director of Finance of the Birmingham Airport Authority at the following address: Birmingham Airport Authority, 5900 Airport Highway, Birmingham, AL 35212.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Birmingham Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Keafur Grimes, Program Manager, Jackson Airports District Office, 100 West Cross Street, Jackson, Mississippi 39208–2307, 601–664–9884. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Birmingham International Airport under the provisions of the Aviation Safety

and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 29, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by Birmingham Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 25, 2003.

The following is a brief overview of the application.

PFC Application No.: 03–04–C–00–BHM.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 2003.

Proposed charge expiration date: September 30, 2007.

Total estimated net PFC revenue: $11,459,371.

Brief description of proposed project(s): Obstruction removal, construct sewer lift station, demolition old ATCT, expand air-carrier apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: FAR Part Air Taxi/Commercial Operators filing FAA Form 1800–1.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Birmingham Airport Authority.

Issued in Jackson, Mississippi on August 4, 2003.

Charles Harris,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 03–21109 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Huntsville International Airport, Huntsville, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 17, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Luther Roberts, Deputy Director of the Huntsville-Madison County Airport Authority at the following address: 1000 Glenn Hearn Blvd., Box 20008, Huntsville, AL 35824.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Huntsville-Madison County Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Keafur Grimes, Program Manager, Jackson Airports District Office, 100 West Cross Street, Jackson, Mississippi 39208–2307, 601–664–9884. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 29, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by Huntsville-Madison County Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 18, 2003.

The following is a brief overview of the application.

PFC Application No: 03–13–C–00–HSV.

Level of the proposed PFC: $4.50.

Proposed charge effective date: September 1, 2003.

Proposed charge expiration date: April 1, 2006.

Total estimated net PFC revenue: $893,790.

Brief description of proposed project(s): Airport rescue fire-fighting vehicle, security enhancements, pavement condition study, taxiway improvements, terminal improvements, access road repair, new air traffic control tower study, fire-fighting equipment, jetbridge improvements, terminal front modification, rehabilitation of airfield apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO), Certified Air Carriers (CAC) and Certified Route Air Carriers (CRAC) having fewer than 500 annual passenger enplanements.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Huntsville-Madison County Airport Authority.

Issued in Jackson, Mississippi on August 4, 2003.

Charles Harris,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 03–21110 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21003]

Lincolnshire Equity Fund II, L.P., et al.—Control—America Charters, Ltd., et al.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Lincolnshire Equity Fund II, L.P. (LEF II), VSC Partners LLC (VSC), and Southeast Coach, Inc. (SCI), noncarriers (collectively, applicants), filed an application under 49 U.S.C. 14303 to acquire control of: America Charters, Ltd. (MC–153814); American Coach Lines, Inc. (MC–141589); B&A Charter Tours, Inc. (MC–170895); Dillon's Bus Service, Inc. (MC–36788); Florida Cruise Connection, Inc. d/b/a Cruise Connection (MC–267620); Golden Isle Coaches of Florida, Inc. (MC–224982); The McMahon Transportation Company (MC–788); Midnight Sun Tours, Inc. (MC–213275); P&S Transportation, Inc. (MC–255382); Royal Tours of America, Inc. d/b/a/

Royal Tours (MC–202587) ; Southern Coach Company (MC–58177); Southern Tours, Inc. (MC–182022); and Tippett Travel, Inc. d/b/a Tippett Travel & Tours (MC–174043) (collectively, motor carriers). Persons wishing to oppose this application must follow the rules under 49 CFR part 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by October 2, 2003. Applicants may file a reply by October 17, 2003. If no comments are filed by October 2, 2003, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21003 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of comments to applicants' representative: Vincent J. Coyle, Jr., Pitney, Hardin, Kipp & Szuch LLP, 685 Third Avenue, New York, NY 10017–1024.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. (Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.)

SUPPLEMENTARY INFORMATION: LEF II, a noncarrier, is a Delaware limited partnership that is a private equity firm specializing in middle market investments. VSC, a noncarrier, is a Delaware limited liability company that is also a private equity firm specializing in middle market investments. SCI, which was specifically created by LEF II and VSC to undertake this transaction, entered into an agreement with Coach USA, Inc., American Sightseeing Tours, Inc. and Coach Leasing, Inc., to purchase all of the outstanding stock of the motor carriers. SCI also agreed to purchase fifty-eight (58) motorcoaches.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction it finds consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Applicants state that the proposed acquisition of control will not reduce competitive options, adversely impact fixed charges, or adversely impact the interests of the employees of the motor carriers. They assert that granting the application will allow the motor carriers to take advantage of economies of scale and substantial benefits offered by applicants that would otherwise be unavailable to the motor carriers individually. Additional information, including a copy of the application, may be obtained from applicants' representative.

On the basis of the application, the Board finds that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on its website at *http://www.stb.dot.gov.*

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on October 2, 2003, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: August 6, 2003.

By the Board, Chairman Nober.

Vernon A. Williams,

Secretary.

[FR Doc. 03–20874 Filed 8–15–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board (Board) has received a subpoena duces tecum in a court proceeding [*Asphalt Busters, Inc.* v. *Chemical Lime Company, et al.*, No. CV–01–0269–PHX–ROS (D. Ariz.)] for access to confidential data from the Board's 1999 and 2001 Carload Waybill Samples for STCC Code 32741 (Lime or Lime Plaster). Any such access obtained in the matter would be subject to a protective order issued August 9, 2001, in the court proceeding.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to release of the data under the conditions prescribed in the confidentiality order, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. In determining whether to resist the subpoena, the Board will be guided by its rules for release of waybill data codified at 49 CFR 1244.9.

Contacts: James A. Nash, (202) 565–1542, Waybill issues. Craig M. Keats, (202) 565–1564, Legal issues.

Vernon A. Williams,

Secretary.

[FR Doc. 03–21032 Filed 8–15–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Activity Under OMB Review; Passenger Origin-Destination Survey Report

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was

published on May 19, 2003 (68 FR 27143).

DATES: Written comments should be submitted by September 17, 2003.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone Number (202) 366–4387, Fax Number (202) 366–3383 or EMAIL *bernard.stankus@bts.gov.*

Comments: 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 burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information on respondents, in including the use of automated collection techniques of other forms of information technology.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Passenger Origin-Destination Survey report.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2139–0001.

Forms: None.

Affected Public: Large certificated air carriers, that provide scheduled passenger service.

Number of Respondents: 32.

Number of Annual responses: 128.

Estimated Time per Response: 240 hours.

Total Annual Burden: 30,720 hours.

Needs and Uses: Program uses for Form 41 data are as follows:

Needs and Uses: Survey data are used in monitoring the airline industry, negotiating international agreements, selecting new international routes, and selecting U.S. carriers to operate limited entry international routes.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on August 12, 2003.

Donald W. Bright,

Assistant Director, Airline Information, Bureau of Transportation Statistics.

[FR Doc. 03–21111 Filed 8–15–03; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

Privacy Act of 1974, as Amended; System of Records

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Notice of a new Privacy Act system of records.

SUMMARY: The Treasury Department, Bureau of Engraving and Printing, proposes to add a new system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S.C. 552a(e)(4)).

DATES: The Bureau of Engraving and Printing invites interested parties to submit comments concerning the new system of records on or before September 17, 2003. The new system will become effective without further notice on September 29, 2003, unless comments dictate otherwise.

ADDRESSES: Please send written comments to: Privacy Act Officer, Bureau of Engraving and Printing, 14th and C Streets, SW., Room 646–PD, Washington, DC 20228.

FOR FURTHER INFORMATION CONTACT: Sherrylyn Ball, Freedom of Information Act Coordinator, (202) 874–2058.

SUPPLEMENTARY INFORMATION: The purpose of this system of records is to provide an emergency notification system for employees who designate specific person(s) to be notified in the event of a personal emergency. The system would allow notification on a 24 hour, 7 day a week basis.

Participation by Bureau employees is entirely voluntary. Information collected will allow health unit and security personnel the ability to make proper emergency notification as designated by the employee.

The new system of records report as required by 5 U.S.C. 552a(r) of the Privacy Act has been submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000.

The proposed Treasury/BEP .047–Employee Emergency Notification System is published in its entirety below.

Dated: August 7, 2003.

W. Earl Wright, Jr.,

Acting Chief Management and Administrative Programs Officer.

TREASURY/BEP .047

SYSTEM NAME:

Employee Emergency Notification System—Treasury/BEP.

SYSTEM LOCATION:

Records are maintained at the following Bureau of Engraving and Printing locations: (1) 14th and C Streets, SW., Washington, DC 20228; and (2) 9000 Blue Mound Road, Ft. Worth, Texas 76131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records cover those Bureau employees who have voluntarily provided personal information.

CATEGORIES OF RECORDS IN THE SYSTEM:

The types of personal information collected by this system are necessary to ensure the timely emergency notification to individuals that employees have identified. The types of personal information presently include or potentially could include the following:

(a) Personal identifiers (name; home, work and electronic addresses; telephone, fax, and pager numbers);

(b) emergency notification (name of person to be notified; address; phone number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3101, *et seq.*, and 5 U.S.C. 301.

PURPOSE:

The purpose of this system of records is to provide emergency notification to those person(s) as voluntarily provided by employees, emergency service providers and law enforcement officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no routine uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on manual locator cards and electronic media.

RETRIEVABILITY:

Records may be retrieved by name, or other unique identifier.

SAFEGUARDS:

BEP has sophisticated Internet firewall security via hardware and software configurations as well as specific monitoring tools. Records are maintained in controlled access areas. Identification cards are verified to ensure that only authorized personnel are present. Electronic records are protected by restricted access procedures, including the use of passwords, sign-on protocols, and user authentication that are periodically changed. Only employees whose official duties require access are allowed to view, administer, and control these records.

RETENTION AND DISPOSAL:

Records will be updated by the employees on a voluntary basis and kept for the duration of the individual's employment. Records can be destroyed at any time at the direction of the employee. Paper records that are ready for disposal are destroyed by shredding or burning. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER AND ADDRESS:

Chief, Office of Administrative Services, Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, DC 20228.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, gain access to the records, or contest the contents of any records maintained in this system may inquire in accordance with instructions appearing in 31 CFR part 1, subpart C, appendix F. Address inquiries to Disclosure Officer, Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–20808 Filed 8–15–03; 8:45 am]

BILLING CODE 4840–01–P

Corrections

Federal Register

Vol. 68, No. 159

Monday, August 18, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15719; Airspace Docket No.03–ACE–61]

Modification of Class E Airspace; Seward, NE

Correction

In rule document 03–20407 beginning on page 47844 in the issue of Tuesday, August 12, 2003, make the following correction:

On page 47845, in the second column, under the heading **Comments Invited**, in the fourth line from the bottom, ''FAA–2003–15710''should read ''FAA–2003–15719''.

[FR Doc. C3–20407 Filed 8–15–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
August 18, 2003

Part II

Environmental Protection Agency

40 CFR Parts 141, 142, and 143

National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule; National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical Contaminants; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141, 142 and 143

[FRL–7530–3]

RIN 2040–AD38

National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule; National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical Contaminants

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In this document, the Environmental Protection Agency (EPA) is proposing maximum contaminant level goals (MCLGs) for chloroform, monochloroacetic acid (MCAA) and trichloroacetic acid (TCAA); National Primary Drinking Water Regulations (NPDWRs) which consist of maximum contaminant levels (MCLs) and monitoring, reporting, and public notification requirements for total trihalomethanes (TTHM—a sum of chloroform, bromodichloromethane, dibromochloromethane, and bromoform) and haloacetic acids (HAA5—a sum of mono-, di-, and trichloroacetic acids and mono- and dibromoacetic acids); and revisions to the reduced monitoring requirements for bromate. This document also specifies the best available technologies (BATs) for the proposed MCLs. EPA is also proposing additional analytical methods for the determination of disinfectants and disinfection byproducts (DBPs) in drinking water and proposing to extend approval of DBP methods for the determination of additional chemical contaminants. This set of regulations proposed today is known as the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR). EPA's objective for the Stage 2 DBPR is to reduce the potential risks of reproductive and developmental health effects and cancer associated with disinfection byproducts (DBPs) by reducing peak and average levels of DBPs in drinking water supplies.

The Stage 2 DBPR applies to public water systems (PWS) that are community water systems (CWSs) or nontransient noncommunity water systems (NTNCWs) that add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light.

DATES: The Agency requests comments on today's proposal. Comments must be received or post-marked by midnight November 17, 2003.

ADDRESSES: Comments may be submitted by mail to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW–2002–0043. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions as provided in section I.C. of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Tom Grubbs, Office of Ground Water and Drinking Water (MC 4607M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (202) 564–5262. For regulatory inquiries, contact Jennifer McLain at the same address; telephone (202) 564–5248. For general information contact the Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding legal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Who Is Regulated by This Action?

Entities potentially regulated by the Stage 2 DBPR are community and nontransient noncommunity water systems that add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light. Regulated categories and entities are identified in the following chart.

Category	Examples of regulated entities
Industry	Community and nontransient noncommunity water systems that add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light.
State, Local, Tribal, or Federal Governments	Community and nontransient noncommunity water systems that add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities of which EPA is now aware that could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the definition of ''public water system'' in § 141.2 and the section entitled ''coverage'' (§ 141.3) in Title 40 of the Code of Federal Regulations and applicability criteria in § 141.600 and 141.620 of today's proposal. If you have questions regarding the applicability of the Stage 2 DBPR to a particular entity, contact one of the persons listed in the preceding section entitled **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 ID No. OW–2002–0043. 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 Water 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 Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. For access to docket material, please call (202) 566–2426 to schedule an appointment.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification 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. 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 section I.B.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification 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.

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.

a. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in Docket ID No. OW–2002–0043. 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.

b. *E-mail.* Comments may be sent by electronic mail (e-mail) to *OW-Docket@epa.gov,* Attention Docket ID No. OW–2002–0043. 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.

c. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section 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 three copies of your comments and any enclosures to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW–2002–0043.

3. *By Hand Delivery or Courier.* Deliver your comments to: Water Docket, EPA Docket Center, Environmental Protection Agency, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OW–2002–0043. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.B.1.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

Abbreviations Used in This Document

AIPC All Indian Pueblo Council
ALT Alanine aminotransferase
AST Aspartate aminotransferase
ASTM American Society for Testing and Materials
AWWA American Water Works Association
AwwaRF American Water Works Association Research Foundation
BAT Best available technology
BCAA Bromochloroacetic acid

BDCM Bromodichloromethane
CWS Community water system
DBAA Dibromoacetic acid
DBCM Dibromochloromethane
DBP Disinfection byproduct
DBPR Disinfectants and Disinfection Byproducts Rule
DCAA Dichloroacetic acid
DOC Dissolved organic carbon
EA Economic analysis
EC Enhanced coagulation
EDA Ethylenediamine
ED_{10} Maximum likelihood estimate of a dose producing effects in 10 percent of animals
EPA United States Environmental Protection Agency
FACA Federal Advisory Committee Act
FBRR Filter Backwash Recycling Rule
GAC Granular activated carbon
GC/ECD Gas chromatography using electron capture detection
GWUDI Ground water under the direct influence of surface water
HAA5 Haloacetic acids (five) (sum of monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid)
IC Ion chromatography
ICR Information Collection Request
IC/ICP–MS Ion chromatograph—coupled to an inductively coupled plasma mass spectrometer
IDSE Initial distribution system evaluation
ILSI International Life Sciences Institute
IESWTR Interim Enhanced Surface Water Treatment Rule
IPCS International Programme on Chemical Safety
IRIS Integrated Risk Information System (EPA)
kWh/yr Kilowatt hours per year
LED_{10} Lower 95 percent confidence bound of the maximum likelihood estimate of the dose producing effects in 10 percent of animals
LH Luteinizing hormone
LOAEL Lowest observed adverse effect level
LRAA Locational running annual average
LT1ESWTR Long Term 1 Enhanced Surface Water Treatment Rule
LT2ESWTR Long Term 2 Enhanced Surface Water Treatment Rule
MBAA Monobromoacetic acid
MCAA Monochloroacetic acid
MCL Maximum contaminant level
MCLG Maximum contaminant level goal
M-DBP Microbial and disinfection byproducts
mg/L Milligram per liter
MRL Minimum reporting level
MRDL Maximum residual disinfectant level
MRDLG Maximum residual disinfectant level goal
MTBE Methyl tertiary butyl ether
mWh Megawatt-hours
NATICH National Air Toxics Information Clearinghouse
NDIR Nondispersive infrared detection
NDMA N-nitrosodimethylamine
NDWAC National Drinking Water Advisory Council
NF Nanofiltration
NOAEL No Observed Adverse Effect Level
NODA Notice of data availability
NPDWR National primary drinking water regulation
NRWA National Rural Water Association
NTNCWS Nontransient noncommunity water system
NTP National Toxicology Program
NTTAA National Technology Transfer and Advancement Act
ODA o-dianisidine dihydrochloride
OMB Office of Management and Budget
OSTP Office of Science and Technology Policy
PAR Population attributable risk
PE Performance evaluation
PWS Public water system
QC Quality control
RAA Running annual average
RFA Regulatory Flexibility Act
RfD Reference dose
RSC Relative source contribution
RSD Relative standard deviation
SAB Science Advisory Board
SAC Selective anion concentration
SBAR Small Business Advisory Review
SBREFA Small Business Regulatory Enforcement Fairness Act
SDWA Safe Drinking Water Act, or the ''Act,'' as amended in 1996
SER Small Entity Representative
SGA Small for gestational age
SUVA Specific ultraviolet absorbance
SWAT Surface Water Analytical Tool
SWTR Surface Water Treatment Rule
TAME Tertiary amyl methyl ether
TCAA Trichloroacetic acid
TCR Total Coliform Rule
THM Trihalomethane
TOC Total organic carbon
TTHM Total trihalomethanes (sum of four THMs: chloroform, bromodichloromethane, dibromochloromethane, and bromoform)
TWG Technical work group
UMRA Unfunded Mandates Reform Act
USDOE EIA U.S. Department of Energy, Energy Information Administration
UV 254 Ultraviolet absorption at 254 nm
WTP Willingness To Pay

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I. Summary

A. Why Is EPA Proposing the Stage 2 DBPR?

The Environmental Protection Agency is committed to ensuring that all public water systems provide clean and safe drinking water. Disinfectants are often an essential element of drinking water treatment because of the barrier they provide against harmful waterborne microbial pathogens. However, disinfectants react with naturally occurring organic and inorganic matter in source water and distribution systems to form disinfection byproducts (DBPs) that may pose health risks. The Agency is proposing the Stage 2 Disinfectants and Disinfection Byproduct Rule (DBPR) to reduce potential cancer, reproductive, and developmental risks from DBPs.

The Stage 2 DBPR augments the Stage 1 DBPR that was finalized in 1998. The proposed Stage 2 DBPR focuses on monitoring and reducing concentrations of two classes of DBPs: total trihalomethanes (TTHM) and haloacetic acids (HAA5). In part, these two groups of DBPs are used as indicators of the various byproducts that are present in disinfected water. This means that concentrations of TTHM and HAA5 are monitored for compliance, but their presence in drinking water is representative of many other DBPs that may also be present in the water; likewise, a reduction in TTHM and HAA5 indicates a reduction of total DBPs.

The Stage 2 DBPR is designed to reduce the level of exposure from disinfectants and DBPs without undermining the control of microbial pathogens. The Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) will be finalized and implemented simultaneously with the Stage 2 DBPR to ensure that drinking water is microbiologically safe at the limits set for disinfectants and DBPs.

New information on health effects, occurrence, and treatment has become available since the Stage 1 DBPR, which supports the need for the Stage 2 DBPR. Several reproductive and developmental studies have recently become available, and EPA has completed a more extensive analysis of reproductive and developmental effects associated with DBPs since the Stage 1 DBPR. Both human epidemiology studies and animal toxicology studies have shown associations between chlorinated drinking water and reproductive and developmental endpoints such as spontaneous abortion, stillbirth, neural tube defects, pre-term delivery, intrauterine growth retardation, and low birth weight. New epidemiology and toxicology studies evaluating bladder and rectal cancers have also increased the weight of evidence linking these health effects to DBP exposure. The large number of people (254 million Americans) exposed to DBPs and the identified potential cancer, reproductive, and developmental risks played a significant role in EPA's decision to move forward with regulatory changes that target lowering DBP exposures beyond the requirements of the Stage 1 DBPR.

While the Stage 1 DBPR provided a major reduction in DBP exposure, new national survey data suggest that some customers are receiving drinking water with elevated, or peak DBP concentrations even when their distribution systems are in compliance with the Stage 1 DBPR. Some of these peak concentrations can be substantially greater than the Stage 1 DBPR maximum contaminant levels (MCLs). The new survey results also showed that Stage 1 DBPR monitoring sites may not be representative of peak DBP concentrations that occur in distribution systems. In addition, the new information indicates that cost-effective technologies including ultraviolet light (UV) and granular activated carbon (GAC) may be very effective at lowering DBP levels. EPA's analysis of this new information concludes that significant public health benefits may be achieved through further cost-effective reduction of DBPs in distribution systems.

Congress required EPA to promulgate the Stage 2 DBPR as part of the 1996 Safe Drinking Water Act (SDWA) Amendments (section 1412(b)(2)(C)). Today's proposal reflects consensus recommendations from the Stage 2 Microbial/Disinfection Byproducts (M-DBP) Federal Advisory Committee (the Advisory Committee). These recommendations are set forth in the M-DBP Agreement in Principle (USEPA 2000g), which can be accessed on the edocket Web site (*www.epa.gov/edocket*).

After considering the new occurrence and health effects data and analyses, EPA has determined that there is an opportunity to further reduce potential risks from DBPs. The Stage 2 DBPR being proposed today presents a cost-effective, risk targeting approach to reduce risks from DBPs. The new requirements provide for more consistent protection from DBPs across the entire distribution system and the reduction of DBP peaks. New risk targeting provisions require only those systems with the greatest risk to make capital improvements. The Stage 2 DBPR, in conjunction with the LT2ESWTR, will help public water systems deliver safer water to Americans with the benefits of disinfection to control pathogens but with fewer risks from DBPs.

B. What Does the Stage 2 DBPR Require?

The Stage 2 DBPR applies to community or nontransient noncommunity water systems that add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light. The TTHM and HAA5 MCL values will remain the same as in the Stage 1 DBPR, although compliance calculations will be different. The proposed Stage 2 DBPR includes new MCLGs for chloroform, monochloroacetic acid, and trichloroacetic acid, but these new MCLGs do not affect the MCLs for TTHM or HAA5.

The risk targeting components of the Stage 2 DBPR will focus the greatest amount of change where the greatest amount of risk may exist. The provisions of the Stage 2 DBPR focus on identifying and reducing exposure by reducing DBP peaks in distribution systems. The first provision, designed to address significant variations in exposure, is the Initial Distribution System Evaluation (IDSE). The purpose

of the IDSE is to identify Stage 2 DBPR compliance monitoring sites for capturing peaks. Because Stage 2 DBPR compliance will be determined at these new monitoring sites, distribution systems that identify elevated concentrations of TTHM and HAA5 will need to make treatment or process changes to bring the system into compliance with the Stage 2 DBPR. By identifying compliance monitoring sites with elevated concentrations of TTHM and HAA5, the IDSE will offer increased assurance that MCLs are being met across the distribution system. Both treatment changes and awareness of TTHM and HAA5 levels resulting from the IDSE will allow systems to better control for distribution system peaks.

The IDSE is designed to offer flexibility to public water systems. The IDSE requires TTHM and HAA5 monitoring for one year on a regular schedule that is determined by source water type and system size. Systems have the option of performing a site-specific study based on historical data, water distribution system models, or other data; and waivers are available under certain circumstances. The proposed IDSE requirements are discussed in sections V.H., V.I., and V.J. of this preamble and in subpart U of the proposed rule.

The second provision of the Stage 2 DBPR, which is designed to address variations in temporal and spatial exposure, is the new compliance calculation of the MCLs. The Stage 1 DBPR running annual average (RAA) calculation allows some locations within a distribution system to have higher DBP annual averages than others as long as the system-wide average is below the MCL. The Stage 2 DBPR will base compliance on a locational running annual average (LRAA) calculation where the annual average at each sampling location in the distribution system will be used to determine compliance with the MCLs. The LRAA will reduce exposures to peak DBP concentrations by ensuring that each monitoring site is in compliance with the MCLs as an annual average, and it will provide all customers drinking water that more consistently meets the MCLs.

EPA is proposing that systems comply with the Stage 2 DBPR MCLs in two phases, designated as Stage 2A and Stage 2B. In Stage 2A, beginning three years after the rule is final, all systems must comply with MCLs of 0.120 mg/L for TTHM and 0.100 mg/L for HAA5 as LRAAs at Stage 1 DBPR sampling sites, in addition to continuing to comply with the Stage 1 DBPR MCLs of 0.080 mg/L and 0.060 mg/L as RAAs for TTHM and HAA5, respectively. In Stage 2B, systems must comply with MCLs of 0.080 mg/L and 0.060 mg/L as LRAAs for TTHM and HAA5, respectively, based on sampling sites identified through the IDSE. A more detailed discussion of the proposed Stage 2 DBPR MCL requirements can be found in sections V.D., V.I., and V.J. of this preamble and in § 141.64(b)(2) and (3), and § 141.136, and subpart V of the rule language.

The IDSE and LRAA calculation will lead to overall reductions in DBP concentrations and reduce short term exposures to high DBP concentrations, but even with this strengthened approach to regulating DBPs it will be possible for individual DBP samples to exceed the MCLs when systems are in compliance with the Stage 2 DBPR. The Stage 2 DBPR requires systems that experience significant excursions to evaluate distribution system operational practices and identify opportunities to reduce DBP concentrations in the distribution system. This provision will curtail peaks and reduce exposure to high DBP levels. Significant excursions are discussed in greater detail in section V.E.

The Stage 2 DBPR also contains provisions for regulating consecutive systems, defined in the Stage 2 DBPR as public water systems that buy or otherwise receive some or all of their finished water from another public water system on a regular basis. Uniform regulation of consecutive systems provided by the Stage 2 DBPR will ensure that consecutive systems deliver drinking water that meets applicable DBP standards. More information on regulation of consecutive systems can be found in sections V.C., V.H., V.I. and V.J.

Today's document proposes plant-based monitoring requirements for non-consecutive systems and certain consecutive systems. Plant-based monitoring means that the number of compliance monitoring locations within a distribution system is based on the number of plants, population served, and type of source water used by the distribution system. EPA is proposing population-based monitoring for consecutive systems that buy all their finished water from other public water systems. EPA is also requesting comment on whether this approach should be extended to all systems covered by today's rule. Under a population-based monitoring structure, the number of compliance monitoring locations is based only on the population served and source water type. Section V.I. describes population-based monitoring and how it might affect systems complying with this rule.

C. What Are the Economic Impacts of the Stage 2 DBPR?

EPA quantified the potential benefits of the Stage 2 DBPR by estimating the reduction in bladder cancer cases that may result from the decrease in average DBP concentrations in disinfected water. Estimated reductions in DBP-related bladder cancers (including both fatal and non-fatal cases) result in annualized benefits ranging from $0 to $986 million (using a three percent discount rate), depending on the risk level assumed.

There may also be a number of important nonquantifiable benefits associated with reducing DBPs in drinking water, the primary ones being reduced potential risk of adverse reproductive and developmental effects including miscarriage, stillbirth, neural tube defects, heart defects, and cleft palate. Although a number of studies have found an association between reproductive and developmental endpoints and short-term exposure to elevated DBP levels, a causal link has not yet been established and information is not yet available to quantify potential effects. As a result, the Agency has not included an estimate of the potential benefits from reducing reproductive and developmental risks in its primary economic impact analysis of the Stage 2 DBPR. However, an illustrative calculation of potential fetal loss risk is discussed in Section VII and presented in more detail in the Economic Analysis (USEPA 2003i) to illustrate the benefits that could be associated with this rule. Reduction in other cancers potentially associated with DBP exposure represent additional unquantified health benefits.

EPA estimates the total annualized costs of the Stage 2 DBPR to be $54 to $64 million. This estimate includes costs associated with treatment changes, the Initial Distribution System Evaluation, changes in compliance monitoring, and rule implementation activities for both public water systems and States. EPA estimates that approximately 2.8 percent of all plants will need to convert to chloramines or add advanced treatment to comply with the Stage 2 DBPR.

Table I–1 presents the estimated quantified and unquantified benefits of the Stage 2 DBPR and the estimated costs. Analyses of unquantified benefits suggest that the total benefits associated with the Stage 2 DBPR might be much greater than these estimates. By targeting risks and building on the solid foundation of the Stage 1 DBPR, the

Stage 2 DBPR will deliver cost-effective reductions in DBP levels and associated potential public health risks.

TABLE I–1.—COSTS AND BENEFITS OF THE STAGE 2 DBPR BASED ON ANNUALIZATION DISCOUNT RATE OF 3%

Costs	Benefits	Unquantified benefits
$54–64 M	$0–986 M	Reduction in potential reproductive and developmental health effects, potential reduction in colon and rectal cancer, improved taste and odor of drinking water, control of contaminants that may be regulated in the future.

II. Background

A combination of factors have influenced the development of the proposed Stage 2 DBPR. These include the initial 1992–1994 Microbial and Disinfection Byproduct (M–DBP) stakeholder deliberations and EPA's Stage 1 DBPR proposal; the 1996 Safe Drinking Water Act (SDWA) Amendments; the 1996 Information Collection Rule; the 1998 Stage 1 DBPR; other new data, research, and analysis on disinfection byproduct (DBP) occurrence, treatment, and health effects since the Stage 1 DBPR; and the Stage 2 DBPR Microbial and Disinfection Byproducts Federal Advisory Committee. The following shows how EPA arrived at this proposal for regulating disinfection byproducts.

A. What Is the Statutory Authority for the Stage 2 DBPR?

The SDWA, as amended in 1996, authorizes EPA to promulgate a national primary drinking water regulation (NPDWR) and publish a maximum contaminant level goal (MCLG) for contaminants the Administrator determines ''may have an adverse effect on the health of persons,'' is ''known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern,'' and for which ''in the sole judgement of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems'' (SDWA section 1412(b)(1)(A)). MCLGs are non-enforceable health goals set at a level at which ''no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety''. These health goals are published at the same time as the NPDWR (sections 1412(b)(4) and 1412(a)(3)).

The Agency may also consider additional health risks from other contaminants and establish an MCL ''at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—(i) increasing the concentration of other contaminants in drinking water; or (ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations'' (section 1412(b)(5)(A)). When establishing an MCL or treatment technique under this authority, ''the level or levels of treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the MCL or levels'' (section 1412(b)(5)(B)).

Finally, section 1412(b)(2)(C) of the Act requires EPA to promulgate a Stage 2 DBPR 18 months after promulgation of the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR). Consistent with statutory requirements for risk balancing (section 1412(b)(5)(B)), EPA will finalize the LT2ESWTR concurrently with the Stage 2 DBPR to ensure simultaneous protection from microbial and DBP risks.

B. What Is the Regulatory History of the Stage 2 DBPR?

The first rule to regulate DBPs was promulgated on November 29, 1979. The Total Trihalomethanes Rule (44 FR 68624) (USEPA 1979) set an MCL of 0.10 mg/L for total trihalomethanes (TTHMs). Compliance was based on the running annual average (RAA) of quarterly averages of all samples collected throughout the distribution system. This TTHM standard applied only to community water systems using surface water and/or ground water that served at least 10,000 people and added a disinfectant to the drinking water during any part of the treatment process.

Under the Surface Water Treatment Rule (SWTR) (54 FR 27486, June 29, 1989) (USEPA 1989a), EPA set MCLGs of zero for *Giardia lamblia,* viruses, and *Legionella;* and promulgated NPDWRs for all public water systems using surface water sources or ground water sources under the direct influence of surface water. The SWTR includes treatment technique requirements for filtered and unfiltered systems that are intended to protect against the adverse health effects of exposure to *Giardia lamblia,* viruses, and *Legionella,* as well as other pathogenic organisms.

EPA also promulgated the Total Coliform Rule (TCR) on June 29, 1989 (54 FR 27544)(USEPA 1989b) to provide protection from microbial contamination in distribution systems of all types of public water supplies. The TCR established an MCLG of zero for total and fecal coliform bacteria, and an MCL based on the percentage of positive samples collected during a compliance period. Under the TCR, no more than 5 percent of distribution system samples collected in any month may contain coliform bacteria.

Together, the SWTR and the TCR were intended to address risks associated with microbial pathogens that might be found in source waters or associated with distribution systems. However, while reducing exposure to pathogenic organisms, the SWTR also increased the use of disinfectants in some public water systems and, as a result, exposure to DBPs in those systems.

In 1992, prompted by concerns about health risk tradeoffs between disinfection byproducts and microbial pathogens, EPA initiated a negotiated rulemaking with a wide range of stakeholders. The negotiators included representatives of State and local health and regulatory agencies, public water systems, elected officials, consumer groups, and environmental groups. The Regulatory Negotiating Committee met from November 1992 through June 1993. Following months of intensive discussions and technical analyses, the Regulatory Negotiating Committee recommended the development of three sets of rules: an Information Collection Rule, a two-staged approach for regulating DBPs, and an ''interim'' Enhanced Surface Water Treatment Rule (IESWTR) to be followed by a ''final'' Enhanced Surface Water Treatment Rule (USEPA 1996a, USEPA 1998c, USEPA 1998d). EPA took the first step towards implementing this strategy by proposing

the Stage 1 DBPR and IESWTR in 1994. Congress affirmed the phased microbial and disinfection byproduct rulemaking strategy in the 1996 SDWA Amendments by requiring that EPA develop these three sets of rules on a specific schedule that stipulates simultaneous promulgation of requirements governing microbial protection and DBPs.

In March 1997, the Agency established the Microbial and Disinfection Byproduct (M–DBP) Advisory Committee under the Federal Advisory Committee Act (FACA) to collect, share, and analyze new information and data available since the 1994 proposals of the Stage 1 DBPR and the IESWTR, as well as to build consensus on the regulatory implications of the new information. The Advisory Committee consisted of 17 members representing EPA, State and local public health and regulatory agencies, local elected officials, drinking water suppliers, chemical and equipment manufacturers, and public interest groups. The Advisory Committee met five times in March through July 1997 to discuss issues related to the IESWTR and the Stage 1 DBPR. The Advisory Committee reached consensus on a number of major issues that were incorporated into the Stage 1 DBPR and the IESWTR.

The Stage 1 DBPR and IESWTR, finalized in December 1998, were the first rules to be promulgated under the 1996 SDWA Amendments (USEPA 1998c and 1998d). The Stage 1 DBPR applies to all community and nontransient noncommunity water systems that add a chemical disinfectant to water. The rule established maximum residual disinfectant level goals (MRDLGs) and enforceable maximum residual disinfectant level (MRDL) standards for three chemical disinfectants—chlorine, chloramine, and chlorine dioxide; maximum contaminant level goals (MCLGs) for three THMs, two haloacetic acids (HAAs), bromate, and chlorite; and enforceable maximum contaminant level (MCL) standards for TTHM, five haloacetic acids (HAA5), chlorite, and bromate calculated as running annual averages (RAAs). The Stage 1 DBPR uses TTHMs and HAA5 as indicators of the various DBPs that are present in disinfected water. Under the Stage 1 DBPR, water systems that use surface water or ground water under the direct influence of surface water and use conventional filtration treatment are required to remove specified percentages of organic materials, measured as total organic carbon (TOC), that may react with disinfectants to form DBPs. Removal is achieved through enhanced coagulation or enhanced softening, unless a system meets alternative compliance criteria.

EPA finalized the IESWTR at the same time as the Stage 1 DBPR to ensure simultaneous compliance and address risk tradeoff issues. The IESWTR applies to all water systems that use surface water or ground water under the direct influence of surface water that serve at least 10,000 people. The purpose of the IESWTR is to improve control of microbial pathogens in drinking water, specifically the protozoan *Cryptosporidium.*

The Filter Backwash Recycle Rule (FBRR) and the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) round out the first group of regulations balancing microbial and DBP risks. EPA promulgated the FBRR in 2001 (USEPA 2001c) and the LT1ESWTR in 2002 (USEPA 2002b) to increase protection of finished drinking water supplies from contamination by *Cryptosporidium* and other microbial pathogens. The LT1ESWTR extends protection against *Cryptosporidium* and other disease-causing microbes to water systems that use surface water or ground water under the direct influence of surface water that serve fewer than 10,000 people. While the Ground Water Rule, proposed in May 2000, (USEPA 2000h) will add significant protection from pathogens in vulnerable ground water systems, it does not pose as many risk-risk tradeoff considerations as the surface water rules because only a small percentage of ground water systems subject to the Stage 2 DBPR have high DBP levels.

EPA reconvened the Advisory Committee in March 1999 to develop recommendations on issues pertaining to the Stage 2 DBPR and LT2ESWTR. The Advisory Committee collected, developed, and evaluated new information that became available after the Stage 1 DBPR was published. The Information Collection Rule provided new data on DBP exposure, and control; it also included new data on occurrence and treatment of pathogens. The unprecedented amount of information collected under the Information Collection Rule was supplemented by a survey conducted by the National Rural Water Association, data provided by various States, the Water Utility Database (which contains data collected by the American Water Works Association), and Information Collection Rule Supplemental Surveys. This large body of data allowed the Advisory Committee to reach new conclusions regarding DBP exposure and new treatment options.

After analyzing the data, the Advisory Committee reached three significant conclusions that led the Advisory Committee to recommending further control of DBPs in public water systems. The data from the Information Collection Rule show that the RAA compliance calculation allows elevated DBP levels to regularly occur at some locations in the system when the overall average at all locations is below the MCL. Customers served at those sampling locations that regularly exceed the MCLs are experiencing higher exposure compared to customers served at locations that consistently meet the MCLs.

Second, the new data demonstrated how single samples can be substantially above the MCLs. The new information showed that it is possible for customers to receive drinking water with concentrations of DBPs up to 75% above the MCLs even when their water system is in compliance with the Stage 1 DBPR. Studies have shown that DBP exposure during short, critical time windows may adversely impact reproductive and developmental health.

Third, data from the Information Collection Rule revealed that the highest TTHM and HAA5 levels are not always located at the maximum residence time monitoring sites specified by the Stage 1 DBPR. These sites were required for monitoring by the Stage 1 DBPR because previous data suggested that water in the distribution system for the maximum residence time would have the highest TTHM levels. The fact that the locations with the highest DBP levels varied in different public water systems indicates that the Stage 1 DBPR monitoring sites may not be representative of the high DBP concentrations that actually exist in distribution systems, and additional monitoring is needed to identify distribution system locations with elevated DBP levels. This information encouraged the Advisory Committee to recommend additional measures to identify locations with high LRAAs. Section IV provides a complete discussion of the new occurrence data.

The analysis of the new data also indicates that certain technologies are effective at reducing DBP concentrations. Bench- and pilot-scale studies for granular activated carbon (GAC) and membrane technologies required by the Information Collection Rule provided information on the effectiveness of the two technologies. Other studies found UV light to be highly effective for inactivating *Cryptosporidium* and *Giardia* at low doses without promoting the formation of DBPs (Malley *et al.* 1996; Zheng *et al.*

1999). This new treatment information added to the treatment options available to utilities for controlling DBPs beyond the requirements of the Stage 1 DBPR.

New data on the health effects of DBPs also influenced the Advisory Committee's recommendation to further regulate DBPs. Although bladder cancer risks were the focus of the Stage 1 M–DBP negotiations, potential reproductive and developmental health effects were central to the Stage 2 M–DBP Advisory Committee discussions. Recent human epidemiology studies and animal toxicology studies have both shown associations between chlorinated drinking water and reproductive and developmental health effects such as spontaneous abortion, stillbirth, neural tube defects, pre-term delivery, intrauterine growth retardation, and low birth weight. A critical review of the epidemiology literature pertaining to reproductive and developmental effects of exposure to DBPs completed in 2000 (Reif *et al.* 2000) concluded that ''the weight of evidence from the epidemiological studies also suggests that they [DBPs] are likely to be reproductive toxicants in humans under appropriate exposure conditions * * * and that measures aimed at reducing the concentrations of byproducts could have a positive impact on public health.''

While there has been substantial research to date, the Advisory Committee recognized that significant uncertainty remains regarding the risk associated with DBPs in drinking water. The Advisory Committee carefully considered the analyses described previously, as well as costs and potential impacts on public water systems, and concluded that a targeted protective public health approach should be taken to address exposure to DBPs beyond the requirements of the Stage 1 DBPR. After reaching this conclusion, the Advisory Committee developed an Agreement in Principle (USEPA 2000g) that laid out their recommendations on how to further control DBPs in public water systems.

In the Agreement in Principle, the Advisory Committee recommended maintaining the MCLs for TTHM and HAA5 at 0.080 mg/L and 0.060 mg/L respectively, but changing the compliance calculation in two phases to facilitate systems moving from the running annual average (RAA) calculation to a locational running annual average (LRAA) calculation. In the first phase, systems would continue to comply with the Stage 1 DBPR MCLs as RAAs and, at the same time, comply with MCLs of 0.120 mg/L for TTHM and 0.100 mg/L for HAA5 calculated as LRAAs. RAA calculations average all samples collected within a distribution system over a one-year period, but LRAA calculations average all samples taken at each individual sampling location in a distribution system during a one-year period. Systems would also carry out an Initial Distribution System Evaluation (IDSE) to select new compliance monitoring sites that more accurately reflect higher TTHM and HAA5 levels occurring in the distribution system. The second phase of compliance would require MCLs of 0.080 mg/L for TTHM and 0.060 mg/L for HAA5 calculated as LRAAs at individual monitoring sites identified through the IDSE.

The Agreement in Principle also provided recommendations for simultaneous compliance with the LT2ESWTR so that the reduction of potential health hazards of DBPs does not compromise microbial protection. The recommendations for the LT2ESWTR included treatment requirements for *Cryptosporidium* based on the results of source water monitoring, a toolbox of options for providing additional treatment at high risk facilities, use of microbial indicators to reduce *Cryptosporidium* monitoring burden on small systems, and future monitoring to determine if source water quality remains constant after completion of initial monitoring. The Agreement also encouraged EPA to develop guidance and criteria to facilitate the use of UV light for compliance with drinking water disinfection requirements. The complete text of the Agreement in Principle (USEPA 2000g) can be found at the edocket Web site *(http://www.epa.gov/edocket).*

After extensive analysis and investigation of available data and rule options considered by the Advisory Committee, EPA is proposing a Stage 2 DBPR control strategy that is consistent with the key elements of the Agreement in Principle signed in September 2000 by the participants in the Stage 2 M–DBP Advisory Committee. EPA determined that the risk-targeting measures recommended in the Agreement in Principle will require only those systems with the greatest risk to make treatment and operational changes and will maintain simultaneous protection from the potential health hazards of DBPs and microbial contaminants. EPA has carefully evaluated and expanded upon the recommendations of the Advisory Committee to more fully develop today's proposal. EPA also made simplifications where possible to minimize complications for public water systems as they transition to compliance with the Stage 2 DBPR while expanding public health protection. The proposed requirements of the Stage 2 DBPR are described in detail in section V of this preamble.

C. How Were Stakeholders Involved in Developing the Stage 2 DBPR?

1. Federal Advisory Committee Process

The Stage 2 M–DBP Advisory Committee consisted of 21 organizational members representing EPA, State and local public health and regulatory agencies, local elected officials, Native American Tribes, large and small drinking water suppliers, chemical and equipment manufacturers, environmental groups, and other stakeholders. Technical support for the Advisory Committee's discussions was provided by a technical working group established by the Advisory Committee. The Advisory Committee held ten meetings to discuss issues pertaining to the Stage 2 DBPR and LT2ESWTR from September 1999 to July 2000 which were open to the public. There was also an opportunity for public comment at each meeting.

In September 2000, the Advisory Committee signed the Agreement in Principle, a full statement of the consensus recommendations of the group. The agreement was published by EPA in a December 29, 2000 **Federal Register** notice (65 FR 83015), together with the list of committee members and their organizations. The Agreement is divided into Parts A and B. The recommendations in each part stand alone and are independent of one another. The entire Advisory Committee reached consensus on Part A, which contains provisions that directly apply to the proposed Stage 2 DBPR and LT2ESWTR. The full Advisory Committee, with the exception of the National Rural Water Association (NRWA), also agreed to Part B, which has recommendations for future activities by EPA in the areas of distribution systems and microbial water quality criteria.

2. Other Outreach Processes

EPA received valuable input from small system operators as part of an Agency outreach initiative under the Regulatory Flexibility Act (RFA). EPA also conducted outreach conference calls to solicit feedback and information from Small Entity Representatives (SERs) on issues related to Stage 2 DBPR impacts on small systems. The Agency consulted with State, local, and Tribal governments on the proposed Stage 2 DBPR. Section VIII includes a complete

description of the many stakeholder activities which contributed to the development of the Stage 2 DBPR.

The Agency held two meetings to discuss consecutive system issues relevant to the proposal (February 22–23, 2001 in Denver, CO and March 28, 2001 in Washington, DC). Representatives from States, EPA Regions, and public water systems participated in the discussions. EPA also briefed the National Drinking Water Advisory Committee at their November 2001 meeting on consecutive system issues associated with the rule to receive input on the implementation strategy selected. This Advisory Committee generally supported EPA's approach. Section V describes EPA's analysis of consecutive system issues, comments and input received during these sessions, and how the proposed requirements will apply to consecutive systems. EPA also consulted with the Science Advisory Board in December 2001 on the requirements of the Stage 2 DBPR.

Finally, EPA posted a pre-proposal draft of the Stage 2 DBPR preamble and regulatory language on an EPA Internet site *(http://www.epa.gov/safewater/mdbp/st2dis.html)* on October 17, 2001. This public review period allowed readers to comment on the Stage 2 DBPR's consistency with the Agreement in Principle of the Stage 2 M–DBP Advisory Committee. EPA received important suggestions on this pre-proposal draft from 14 commenters which included public water systems, State governments, laboratories, and other stakeholders. While EPA will not formally respond to these comments, EPA has carefully considered them in developing today's proposal.

III. Public Health Risk

Chlorine has been widely used as a chemical disinfectant, serving as a principal barrier to microbial contaminants in drinking water. However, the microbial risk reduction attributes of chlorination have been increasingly scrutinized due to concerns about potential increased health risks from exposure to disinfection byproducts, which are formed when certain disinfectants interact with organic and inorganic material in source waters. Since the discovery of chlorination byproducts in drinking water in 1974, numerous toxicological studies have shown several DBPs (*e.g.*, bromodichloromethane, bromoform, chloroform, dichloroacetic acid, trichloroacetic acid and bromate) to be carcinogenic in laboratory animals. These findings of carcinogenicity influenced EPA to promulgate the TTHM Rule in 1979 and the Stage 1 DBPR in 1998. The Stage 1 DBPR primarily addressed possible carcinogenic effects (*e.g.*, bladder, colon and rectal cancers) reported in both human epidemiology and laboratory animal studies. Since the Stage 1 DBPR, new health studies continue to support an association between bladder, colon and rectal cancers from long-term exposure to chlorinated surface water. In addition to cancer effects, recent studies have reported associations between use of chlorinated drinking water and a number of reproductive and developmental endpoints including spontaneous abortion, still birth, neural tube defect, pre-term delivery, low birth weight and intrauterine growth retardation (small for gestational age). Short-term, high-dose animal screening studies on individual byproducts (*e.g.*, bromodichloromethane (BDCM), and certain haloacetic acids) have also reported adverse reproductive and developmental effects (*e.g.*, whole litter resorption, reduced fetal body weight) that are similar to those reported in the human epidemiology studies. This section discusses the new studies that have become available since promulgation of the Stage 1 DBPR and how they contribute to the weight of evidence for an association between health effects and exposure to chlorinated surface water.

While the Stage 1 DBPR was targeted primarily at reducing long-term exposures to elevated levels of DBPs to address chronic health risks from cancer, the Stage 2 DBPR targets reducing short-term exposures to address potential reproductive and developmental health risks and cancer risks.

Based on the weight of evidence from both the human epidemiology and animal toxicology data on cancer and reproductive and developmental health effects and consideration of the large number of people exposed to chlorinated byproducts in drinking water (approximately 254 million), EPA concludes that: (1) Current reproductive and developmental health effects data support a hazard concern, (2) new cancer data strengthens the evidence of an association of chlorinated water with bladder cancer and suggests an association for colon and rectal cancers, and (3) the combined health data warrant regulatory action beyond the Stage 1 DBPR.

A. Reproductive and Developmental Epidemiology

The following section briefly discusses reproductive and developmental epidemiology information EPA analyzed, some conclusions of these studies and reports, and implications for the Stage 2 DBPR. Further discussion of the implications and EPA's conclusions can be found in the Stage 2 Economic Analysis (USEPA 2003i).

EPA has evaluated recently published epidemiological studies examining the relationship between exposure to contaminants in chlorinated surface water and adverse reproductive and developmental outcomes. EPA also considered critical reviews of the epidemiological literature by Reif *et al.* (2000), Bove *et al.* (2002), and Nieuwenhuijsen *et al.* (2000). Based on these evaluations, EPA believes that the reproductive and developmental epidemiology data contribute to the weight of evidence on the potential health risks from exposure to chlorinated drinking water. Although the data are not suitable for a quantitative risk assessment at this time, due in part to inconsistencies in the findings, they do suggest that exposure to DBPs is a potential reproductive and developmental health hazard.

1. Reif *et al.* 2000

Reif *et al.* (2000) completed a critical review of the epidemiology literature pertaining to reproductive and developmental effects of exposure to disinfection byproducts in drinking water as a report to Health Canada. The review focused on 16 peer-reviewed scientific manuscripts and published reports and evaluated associations between DBP exposure and outcomes grouped as effects on: (1) Fetal growth—low birth weight (<2500g); very low birth weight (<1500g); preterm delivery (<37 weeks of gestation) and intrauterine growth retardation (or small for gestational age); (2) fetal viability (spontaneous abortion and stillbirth) and (3) fetal malformations (all malformations, oral cleft defects, major cardiac defects, neural tube defects, and chromosomal abnormalities).

a. *Fetal growth.* Reif *et al.* (2000) found inconsistent epidemiological evidence for an association between DBPs and fetal growth. Some studies found weak but statistically significant associations (Gallagher *et al.* 1998; Bove *et al.* 1992 and 1995), while two studies found no association (Dodds *et al.* 1999; and Savitz *et al.* 1995) with fetal growth.

b. *Fetal viability.* Reif *et al.* 2000's review of the literature found inconsistencies in the epidemiological evidence for the association between DBP exposure and fetal viability. For instance, the study by Waller *et al.* 1998 found an apparent dose-dependent increase in rates of spontaneous

abortions associated with TTHMs in California. On the other hand, Savitz *et al.* (1995) found little evidence of an association using either the concentration of TTHM ≥81 µg/L or a dose estimate based on the amount of tap water consumed. An increased risk of stillbirth was reported for women in Nova Scotia by Dodds *et al.* 1999, but in New Jersey, Bove *et al.* (1992, 1995) found little evidence of an association with TTHM at 80 µg/L, but did report a weak association between stillbirth and use of surface water systems. Aschengrau *et al.* (1993) found an association between stillbirth and the use of a chlorinated vs. chloraminated surface water supply, but not for exposure to surface water.

c. *Fetal malformations and other developmental anomalies.* Reif *et al.* (2000) considered the data for congenital anomalies to be inconsistent across the six studies that have explored these outcomes. For example, two of the four studies on neural tube defects (Bove *et al.* 1995; Magnus *et al.* 1999) reported significant excess risks, but the remaining two studies (Dodds *et al.* 1999; Klotz and Pyrch *et al.* 1999) did not. These studies found lower risks or no evidence of an association with TTHM. However, those studies were conducted in locations with either very low or high concentrations of DBPs which may have limited the contrast in exposures, thereby reducing the ability to detect increased risks. An assessment of congenital anomalies is also difficult due to the relatively small number of cases available for evaluation.

Overall, Reif *et al.* (2000) conclude that the weight of evidence from the epidemiological studies suggest that ''DBPs are likely to be reproductive toxicants in humans under appropriate exposure conditions.'' Reif *et al.* comment that data from animal studies of individual DBPs provide biological plausibility for the effects observed in epidemiological studies. Although the authors recognize that the ''data are primarily at the stage of hazard identification,'' they conclude that ''measures aimed at reducing the concentrations of byproducts could have a positive impact on public health.''

2. Bove *et al.* 2002

Bove *et al.* (2002) conducted a qualitative review of 14 epidemiological studies that evaluated possible developmental and reproductive endpoints associated with exposure to chlorination byproducts in drinking water. Similar to Reif *et al.*, Bove *et al.* evaluated associations between DBP exposure and outcomes grouped as effects on (1) fetal growth—small for gestational age (SGA) as defined in each study (usually defined as the fifth or tenth percentile weight by gestational week of birth); (2) fetal viability—spontaneous abortion and stillbirth; and (3) fetal malformations (neural tube defects, oral clefts, and cardiac defects).

a. *Fetal growth.* Bove *et al.* found that, although the studies that evaluated SGA had several limitations, three studies out of eight (Kramer *et al.* 1992, Bove *et al.* 1995, and Gallagher *et al.* 1998) ''provided moderate evidence for a causal relationship between a narrow definition of SGA * * * and TTHM levels that could be found currently in some U.S. public water systems.'' They also concluded that the study with the best exposure assessment found the strongest association between SGA and TTHM exposure (Gallagher *et al.* 1998). One study found a very weak association (Dodds *et al.* 1999) and the other four did not observe an association (Yang *et al.* 2000, Kanitz *et al.* 1996, Kallen *et al.* 2000, and Jaakkola *et al.* 2001).

b. *Fetal viability.* Bove *et al.* evaluated three studies on spontaneous abortion and three studies on stillbirth. Again, Bove *et al.* found that the study employing the best methods found the strongest association between TTHM exposure and spontaneous abortions (Waller *et al.* 1998). The other two studies (Savitz *et al.* 1995 and Aschengrau *et al.* 1989) found weak associations. Two of the studies investigating stillbirths found an association between stillbirths and chlorinated surface water (Dodds *et al.* 2001 and Aschengrau *et al.* 1993). The third study (Bove *et al.* 1995) found no association, however this study did not evaluate individual THM levels or cause of death information.

c. *Fetal malformations.* Bove *et al.* evaluated seven studies that investigated the relationship between birth defects and DBP exposure. This evaluation found ''consistency among these studies in the findings for neural tube defects and oral cleft defects, but not for cardiac defects. Associations were found for neural tube defects in all three studies that examined neural tube defects. These studies also evaluated levels of THM exposure (Bove *et al.* 1995; Dodds *et al.* 1999; Klotz *et al.* 1999).'' Two studies evaluated oral cleft defects and levels of THMs; one found an association with TTHM (Bove *et al.* 1995) and the other found an association with chloroform (Dodds *et al.* 2001). A third study that did not evaluate THM levels did not identify an association with oral cleft defects (Jaakkola *et al.* 2001). Bove *et al.* 1995 found an association between cardiac defects and TTHM, but Dodds *et al.* 1999, 2001 and Shaw *et al.* 1991 did not. An association between chlorination and urinary tract defects was found in the three studies that evaluated that endpoint (Källén *et al.* 2000; Magnus *et al.* 1999; Aschengrau *et al.* 1993).

Bove *et al.* (2002) concluded that the current reproductive and developmental epidemiological database for exposure to chlorinated byproducts in drinking water presents moderate evidence for associations between DBP exposure and SGA, neural tube defects and spontaneous abortion. The authors acknowledged the difficulties in assessing exposure with any precision in the studies reviewed, but held the opinion that misclassification of exposure would tend to underestimate rather than overestimate the risk.

3. Nieuwenhuijsen *et al.* 2000

Nieuwenhuijsen *et al.* (2000) reviewed the toxicological and epidemiological literature and evaluated the potential risk of chlorination DBPs on human reproductive health. The authors state that ''some studies have shown associations for DBPs and other outcomes such as spontaneous abortions, stillbirths and birth defects, and although the evidence for these associations is weaker it is gaining weight.'' Nieuwenhuijsen *et al.* also concluded that, ''although studies report small risks that are difficult to interpret, the large number of people exposed to chlorinated water supplies constitutes a public health concern.''

4. Additional Epidemiology Studies

Three new reproductive and developmental epidemiological studies were completed that were not included in the Reif *et al.* 2000, Bove *et al.* 2002, or Nieuwenhuijsen *et al.* 2000 literature reviews.

Waller *et al.* 2001, recalculated the total trihalomethane exposures from their original publication (Waller *et al.* 1998) to evaluate two exposure assessment methods (closest site and utility-wide average). The new calculations were intended to reduce exposure misclassification by employing weighting factors and subset analyses. As in the 1998 publication, the new methods found a relationship between spontaneous abortion and THM exposure, although the unweighted utility-wide point estimate was lower than reported in the original manuscript.

Hwang *et al.* 2002, assessed the effect of water chlorination byproducts on specific birth defects in Norway by

classifying exposure on the basis of chlorination (yes/no) and amount of natural organic matter in the water. Statistically significant associations with exposure were found for risks of any birth defect, cardiac, respiratory, and urinary tract defects. For specific birth defects, a statistically significant association was found for a defect of the septum in the heart.

Windham *et al.*, 2003, assessed the relationship between exposure to THMs in drinking water and characteristics of the menstrual cycle among 403 women who provided daily urine samples for an average of 5.6 cycles. Women whose tap water had TTHM levels more than 0.060 mg/l had statistically significantly shorter menstrual cycles than women whose tap water had lower TTHMs. On average, the menstrual cycles of women with the higher levels of TTHMs were one day shorter than cycles of women with the lower levels (adjusted difference: −1.1 days, 95% confidence interval: −1.8 days to −0.4 days). This shortening occurred during the first half of the cycle, before ovulation (adjusted difference: −0.9 days; 95% confidence interval: −1.6 days to −0.2 days). There were no changes in bleed length or in the regularity of the cycles. Based on their study, Windham *et al.*, 2003, suggested that THM exposure may affect ovarian function, but since this is the first study to examine human menstrual cycle variation in relation to THM exposure, more research is needed to confirm the relationship. The public health implication of a small reduction in menstrual cycle length is not clear, but if THMs are related to disturbances in ovarian function, that might provide insight into the observed associations between THMs and a variety of adverse reproductive outcomes.

EPA's epidemiology research program continues to examine the relationship between exposure to DBPs and adverse developmental and reproductive effects. The Agency is supporting several studies using improved study designs to provide better information for characterizing potential risks. Details on EPA's epidemiology research program can be found at *http://cfint.rtpnc.epa.gov/dwportal/cfm/dwMDBP.cfm*.

B. Reproductive and Developmental Toxicology

Several new reproductive and developmental toxicology studies have become available since the December 1998 Stage 1 DBPR. This discussion presents some conclusions derived from these studies and reports, including hazard identification, as well as implications for the Stage 2 DBPR.

EPA conducted a literature search of animal toxicology studies on chronic and subchronic DBP exposures associated with reproductive and developmental health effects, evaluated the current reproductive and developmental toxicological database for several individual DBPs, and assessed two independent reviews (Tyl 2000 and WHO 2000). As a result of these analyses, EPA has concluded that although the database is not strong enough to quantify risk, it is sufficient to support a hazard concern. This hazard concern supports the need to address potential reproductive and developmental health effects in the Stage 2 DBPR. The following section describes how this conclusion was reached.

1. EPA Analysis and Research

Since the Stage 1 DBPR, EPA has continued to support reproductive and developmental toxicological research on various disinfection byproducts through extramural and intramural research programs. Information on EPA's toxicology programs can be found at *http://www.epa.gov/nheerl/*. These studies, along with data on several DBPs published after the 1998 Stage 1 DBPR, are summarized in the updated children's health document, ''Health Risks to Fetuses, Infants, and Children: A Review'' (USEPA 2003a).

In addition to this compilation of data, EPA has also prepared individual health criteria documents that provide detailed summaries of the relevant new information, as well as an overall characterization of the human health risks from exposure to certain DBPs (USEPA 2003b-USEPA 2003h, USEPA 2003l). From these new evaluations, EPA has concluded that several new studies on individual byproducts contribute to the weight of evidence for an association between DBP exposure and adverse effects on the developing fetus and reproduction. These effects include fetal loss, cardiovascular effects, and male reproductive effects and are associated with bromodichloromethane (BDCM), dichloroacetic acid (DCAA), trichloroacetic acid (TCAA), bromochloroacetic acid (BCAA), and dibromoacetic acid (DBAA). The data from these new studies do not change the MCLGs that were established as a part of the Stage 1 DBPR.

2. Tyl 2000

Tyl (2000) conducted a comprehensive review of the reproductive and developmental toxicology literature on DBPs representing over thirty-five studies. Adverse effects reported by these studies include developmental effects, whole litter resorption, reduced fetal body weights, and male reproductive effects (*e.g.*, inhibited spermiation, increased abnormal sperm). Many of these studies are categorized as high-dose, short-term screening studies that can be used to assess potential hazard (Table III–1), while the long term, two-generation reproduction studies could be an appropriate basis for quantitative risk assessment.

Disinfectant/DBP	Screening [1]	Developmental [2]	Two-generation [3] reproductive
Chlorine		✔	
Chlorine Dioxide	✔	✔	
Chloramine		✔	
Chloroform	✔	✔	✔
Bromoform	✔	✔	✔
Bromodichloromethane	✔	✔	in progress
Dibromochloromethane	✔	✔	
Monochloroacetic acid	✔	✔	
Dichloroacetic acid	✔	✔	
Trichloroacetic acid	✔	✔	
Monobromoacetic acid	✔	✔	
Dibromoacetic acid	✔	✔	in progress
Tribromoacetic acid	✔		
Bromochloroacetic acid	✔		in planning stage
Bromodichloroacetic acid	✔		
Dibromochloroacetic acid	✔		

Disinfectant/DBP	Screening [1]	Developmental [2]	Two-generation [3] reproductive
Chloroacetonitrile	✔		
Dichloroacetonitrile	✔	✔	
Trichloroacetonitrile	✔	✔	
Bromoacetonitrile	✔	✔	
Dibromoacetonitrile	✔		
Tribromoacetonitrile			
Bromochloroacetonitrile	✔	✔	
Propanal	✔	✔	
1,1 Dichloropropanone	✔		
Hexachloropropanone	✔		
Dichloromethane	✔		
MX	✔	✔	
Bromate	✔		
Chlorite	✔	✔	✔

✔ denotes the availability of at least one study in the following categories.
[1] Screening studies are for hazard identification. These types of studies include the following: whole embryo culture, NTP 35-day screening studies, Chernoff-Kavlock and its modified version, and short-term male reproductive toxicity screen.
[2] Developmental studies are used for dose-response determinations.
[3] Two-generation reproductive studies are multi-generation reproductive toxicity studies used for dose-response determinations.

Tyl concluded that, ''The screening studies, performed for a number of DBPs, are 'adequate' and 'sufficient' only to detect potent reproductive/developmental toxicants for hazard identification.'' Tyl further confirms that the database identifies certain DBPs with potential reproductive or developmental effects (Table III–2) and these are discussed further in the next section.

TABLE III–2.—POTENTIAL HAZARDS OF DBPS FOR REPRODUCTIVE AND DEVELOPMENTAL EFFECTS (ADAPTED FROM TYL, 2000)

Type of hazard	Disinfection byproducts
Developmental defects	TCAA, DCAA, MCAA and chlorite.
Whole litter resorption	Chloroform, bromoform, BDCM, DBCM, DCAA, TCAA, DCAN, and TCAN.
Fetotoxicity (reduced fetal body weights, increased variations)	Chloroform, BDCM, DBCM, DCAA, TCAA, DCAN, TCAN, DBAN, BCAN, MCAN.
Male reproductive effects (spermatotoxic)	DCAA, DBAA, BDCM.

a. *Developmental defects.* Tyl noted that adverse developmental effects that were reported from whole embryo culture tests on the developing heart, neural tube, eye, pharyngeal arch, and somites tended to be associated with haloacetic acids tested at high doses (Hunter *et al.* 1996; Saillenfait *et al.* 1995, Smith *et al.* 1989). Cardiovascular effects were also observed in vivo for TCAA and DCAA from developmental segment II toxicity studies at high doses (Smith *et al.* 1988, 1990).

b. *Whole litter resorption.* Whole litter resorption, likened to miscarriage or spontaneous abortion by Tyl 2000, was also observed at high doses in vivo for a range of DBPs as indicated in Table III–2 (Murray *et al.* 1979, Balster and Borzellca, 1982, Narotsky *et al.* 1992; 1997 a, b; Bielmeier *et al.* 2001; Smith *et al.* 1990; Smith *et al.* 1988). Tyl noted that similar effects were observed in several epidemiology studies.

c. *Fetal toxicity.* Fetal toxic effects such as reduced fetal body weights and increased variation were observed at high doses in vivo for a range of DBPs (*e.g.*, chloroform, BDCM, DBCM, DCAA, TCAA, DCAN, TCAN, DBAN, BCAN) (Thompson *et al.* 1974; Schwetz *et al.* 1974; Murray *et al.* 1979; Ruddick *et al.* 1983; Narotsky *et al.* 1992, Balster and Borzelleca, 1982; Smith *et al.* 1990). Again, Tyl noted a similarity in effects observed in epidemiology studies.

d. *Male reproductive effects.* Animal toxicology studies report increased risks of adverse effects on the male reproductive system from high doses of haloacetic acids and other DBPs that have not been studied in human epidemiology studies. Male reproductive effects (*e.g.*, inhibited spermiation, reduced epididymus, sperm number and motility, increased abnormal sperm, testicular damage and inhibited in vitro fertilization) were reported for DCAA, DBAA, TCAA and BDCM (Toth *et al.* 1992, Linder *et al.* 1997a, b; Linder *et al.* 1994a, b; Cosby and Dukelow 1992). Dr. Tyl noted that the adverse effects observed in the male reproductive toxicity screening studies (Toth *et al.* 1992; Linder *et al.* 1994a, b; 1997a, b) are confounded by a short dosing regimen and administration of test doses to only adult males.

From her review of the comprehensive animal toxicology database on reproductive and developmental health effects from DBP exposure, Dr. Tyl concludes that ''some DBPs have an intrinsic capacity to do harm, specifically to the developing conceptus and the male (and possibly the female) reproductive system''. She concludes that ''there is hazard to development from the haloacetic acids (TCAA, DCAA, MCAA) and acetate; to development from chloroform, bromoform, BDCM, DBCM, DCAA, TCAA, DCAN, and TCAN expressed as full litter resorption (which most likely indicates maternal endocrine/uterine effects); and fetotoxicity for chloroform, BDCM, DBCM, DCAA, TCAA, DCAN, TCAN, DBAN, BCAN, CAN, acetaldehyde, and possibly formaldehyde. Reproductive hazard exists for DCAA, DBAA, and possibly formaldehyde in males and for TCE and possibly formaldehyde in females.''

3. World Health Organization Review of the Reproductive and Developmental Toxicology Literature (2000)

The International Programme on Chemical Safety (IPCS) published an evaluation of Disinfectants and DBPs in its *Environmental Health Criteria* monograph series (WHO 2000). In this review of the toxicology data on reproductive and developmental effects from DBP exposure, the World Health Organization (WHO) concludes that although the data on these effects are not as robust as the cancer database, these effects are of potential health concern. The WHO concludes that reproductive effects in females have been principally embryolethality and fetal resorptions associated with the haloacetonitriles (trichloroacetonitrile, dichloroacetonitrile, bromochloroacetonitrile, and dibromoacetonitrile) and the dihaloacetates, while DCAA and DBAA have both been associated with adverse effects on male reproduction.

4. New Studies

Christian *et al.* (2001) conducted a developmental toxicity study with pregnant New Zealand White rabbits exposed to BDCM in drinking water at concentrations of 0, 15, 150, 450, and 900 ppm in drinking water on gestation days 6–29. The no observed adverse effect level (NOAEL) and lowest observed adverse effect level (LOAEL) identified for maternal toxicity in this study were 13.4 mg/kg-day (150 ppm) and 35.6 mg/kg-day (450 ppm), respectively, based on decreased body weight gain. The developmental NOAEL was 55.3 mg/kg-day (900 ppm) based on absence of statistically significant, dose-related effects at any tested concentration. Christian *et al.* (2001) also conducted a developmental study of BDCM in a second species, Sprague-Dawley rats. Rats were exposed to BDCM in the drinking water at concentrations of 0, 50, 150, 450, and 900 ppm on gestation days 6 to 21. The concentration-based maternal NOAEL and LOAEL for this study were 150 ppm and 450 ppm, respectively, based on statistically significant, persistent reductions in maternal body weight and body weight gains. Based on the mean consumed dosage of bromodichloromethane, these concentrations correspond to doses of 18.4 mg/kg-day and 45.0 mg/kg-day, respectively. The concentration-based developmental NOAEL and LOAEL were 450 ppm and 900 ppm, respectively, based on a significantly decreased number of ossification sites per fetus for the forelimb phalanges (bones of the hand or the foot) and the hindlimb metatarsals and phalanges. These concentrations correspond to mean consumed doses of 45.0 mg/kg-day and 82.0 mg/kg-day, respectively.

Christian *et al.* (2002b) summarized the results of a two-generation reproductive toxicity study on bromodichloromethane conducted in Sprague-Dawley rats. Bromodichloromethane was continuously provided to test animals in the drinking water at concentrations of 0, 50, 150, or 450 ppm. Average daily doses estimated for the 50, 150, and 450 ppm concentrations were reportedly 4.1 to 12.6, 11.6 to 40.2, and 29.5 to 109 mg/kg-day, respectively. The parental NOAEL and LOAEL were 50 and 150 ppm, respectively, based on statistically significant reduced body weight and body weight gain; F1 and F2 generation pup body weights were reduced in the 150 and 450 ppm groups during the lactation period after the pups began to drink the water provided to the dams. Body weight and body weight gain were also reduced in the 150 and 450 ppm F1 generation males and females. A marginal effect on estrous cyclicity was observed in F1 females in the 450 ppm exposure group. Small (≤6%), but statistically significant, delays in F1 generation sexual maturation occurred at 150 (males) and 450 ppm (males and females) as determined by timing of vaginal patency or preputial separation. The study's authors considered these effects to be a secondary response associated with reduced body weight, which appears to be dehydration brought about by taste aversion to the compound. The results of this study identify NOAEL and LOAEL values for reproductive effects of 50 ppm (4.1 to 12.6 mg/kg-day) and 150 ppm (11.6 to 40.2 mg/kg-day), respectively, based on delayed sexual maturation.

Bielmeier *et al.* (2001) conducted a series of experiments to investigate the mode of action in bromodichloromethane-induced full litter resorption (FLR). The study included a strain comparison of F344 and Sprague-Dawley (SD) rats. In the strain comparison experiment, female SD rats (13 to 14/dose group) were dosed with 0, 75, or 100 mg/kg-day by aqueous gavage in 10% Emulphor® on GD 6 to 10. F344 rats (12 to 14/dose group) were dosed with 0 or 75 mg/kg-day administered in the same vehicle. The incidence of FLR in the bromodichloromethane-treated F344 rats was 62%, while the incidence of FLR in SD rats treated with 75 or 100 mg/kg-day of bromodichloromethane was 0%. Both strains of rats showed similar signs of maternal toxicity, and the percent body weight loss after the first day of dosing was comparable for SD rats and the F344 rats that resorbed their litters. The rats were allowed to deliver and pups were examined on postnatal days 1 and 6. Surviving litters appeared normal and no effect on post-natal survival, litter size, or pup weight was observed. The series of experiments conducted by Bielmeier *et al.* (2001) identified a LOAEL of 75 mg/kg-day (the lowest dose tested) based on FLR in F344 rats. A NOAEL was not identified. Mechanistic studies indicate that BDCM-induced pregnancy loss is likely to be luteinizing hormone (LH)-mediated (Bielmeier *et al.*, 2001). It is possible that BDCM alters LH levels by disrupting the hypothalamic-pituitary-gonadal axis or by altering the responsiveness of the corpora lutea to LH. Since these possible mechanisms are potentially relevant to pregnancy maintenance in humans, EPA believes the finding of BDCM-induced pregnancy loss in F344 rats is relevant to risk assessment, and may provide insight into the epidemiological finding of increased risk of spontaneous abortion associated with consumption of BDCM (Waller *et al.* 1998, 2001).

Christian *et al.* (2002a) recently completed a two-generation drinking water study of DBA in rats. Male and female Sprague-Dawley rats (30/sex/exposure group) were administered DBA in drinking water at concentrations of 0, 50, 250, or 650 ppm continuously from initiation of exposure of the parental (P) generation male and female rats through weaning of the F_2 offspring. Based on testicular histomorphology indicative of abnormal spermatogenesis in P and F_1 males, the parental and reproductive/developmental toxicity LOAEL and NOAEL are 250 and 50 ppm, respectively.

Previous studies by EPA have reported adverse effects of DBA, administered via oral gavage, on spermatogenesis that impacted male fertility (Linder *et al.* 1994a, 1995, 1997a) at doses-comparable to those achieved in the Christian *et al.* (2002a) study. Based on these studies collectively, it is clear that DBA is spermatotoxic. Moreover, Veeramachaneni *et al.* (2000) reported in an abstract that sperm from male rabbits exposed to DBA *in utero* from gestation days 15 and throughout life reduced the fertility of artificially inseminated females as evidenced by reduced conceptions. When published, this study may support the evidence that DBA is a male reproductive system toxicant .

In addition, research on DBA by Klinefelter *et al.* (2001) has

demonstrated statistically significant delays in both vaginal opening and preputial separation using the body weight on the day of acquisition (postnatal day 45) as the co-variant. This was not found by Christian *et al* (2002a) using the body weight at weaning as the statistical covariant. However, the authors analyzed the data for preputial separation and vaginal opening with body weight on the day of weaning as a co-variant rather than body weight on the day of acquisition, *i.e.*, the day that the prepuce separates or the day the vagina opens. It is likely that there was an increase in body weight from postnatal day 21 (weaning) until preputial separation (day 45) that was independent of the delay in sexual maturation.

Although the Christian *et al.* (2002a) study was conducted in accordance with EPA's 1998 testing guidelines, EPA has incorporated newer, more sophisticated measures into recent intramural and extramural studies that have not yet been incorporated into the testing guidelines. Such measures include measuring changes in specific proteins in the sperm membrane proteome and fertility assessments via in utero insemination. EPA believes that additional research is needed, utilizing these newer toxicological measures, to clarify the extent to which DBA poses human reproductive or developmental risk. The database on male reproductive effects from exposure to DBA is incomplete and is not suitable for quantitative risk assessment at this time. It does, however, identify reproductive effects as an area of concern.

C. Conclusions Drawn From the Reproductive and Developmental Health Effects Data

EPA believes that the weight of evidence of the best available science, in conjunction with the widespread exposure, supports regulatory changes that target peak DBP exposures specifically through the Stage 2 DBPR. Several epidemiology studies found statistically significant associations between exposure to chlorinated drinking water and fetal growth, spontaneous abortion, stillbirth, and neural tube defects. Although uncertainties remain and the current database does not support a quantitative reproductive and developmental risk assessment for most of the DBPs, the weight of evidence provides an indication of a hazard concern that warrants additional regulatory action beyond the Stage 1 DBPR.

Biological plausibility for the effects observed in epidemiological studies has been demonstrated through various toxicological studies. Tyl 2000 states that ''effects observed in animal studies included embryonic heart and neural tube defects from haloacetic acids in vitro and in vivo, and full litter resorption, reduced numbers of implants per litter, and reduced fetal body weight per litter were also observed from exposure to specific trihalomethanes. Comparable effects were also observed in children in some (but not all) epidemiological studies, with exposure to trihalomethanes (THMs) usually used as a surrogate for specific DBP classes or individual DBPs, as follows: increased incidences of cardiac defects (Bove *et al.* 1995) and of neural tube defects in children (Bove *et al.* 1995; Dodds *et al.* 1999; Klotz and Pyrch 1998) were reported. Intrauterine growth retardation (IUGR, approximately equivalent to reduced fetal body weights per litter) was reported to be associated with waterborne chloroform (Kramer *et al.* 1992; Bove *et al.* 1995; Gallagher *et al.* 1998). Miscarriage or spontaneous abortion, or stillbirth (approximately equivalent to whole litter resorption, reduced numbers of total and/or live implants per litter, and increased resorptions per litter) were observed by Waller *et al.*, 1998; Dodds *et al.*, 1999; and Bove *et al.*, 1995.''

Similarity of effects between animals and humans lends credence to and strengthens the weight of evidence for an association between adverse reproductive and developmental health effects and exposure to chlorinated surface water. EPA believes that the weight of evidence of both the reproductive and developmental toxicological and epidemiological databases suggests that exposure to DBPs may induce potential adverse health effects on reproduction and fetal development at some DBP exposures. However, additional toxicological work is necessary to identify the mode of action for the effects observed.

D. Cancer Epidemiology

Epidemiological studies on cancer provide valuable information that contributes to the overall evidence on the potential human health hazards from exposure to chlorinated drinking water. In the area of epidemiology, a number of studies have been conducted to investigate the relationship between exposure to chlorinated surface water and cancer. While EPA cannot conclude there is a causal link between exposure to chlorinated surface water and cancer, some studies have found an association between bladder, rectal and colon cancer and exposure to chlorinated surface water.

1. Population Attributable Risk Analysis

Some epidemiological studies have linked the consumption of chlorinated surface waters to an increased risk of two major causes of human mortality in the United States, colorectal and bladder cancers (Cantor 1998). Bladder cancer was chosen as the primary endpoint of concern in the Stage 1 DBPR (USEPA 1998f) economic analysis because it had the most consistent database for a possible association to chlorinated surface water exposure. More studies have considered bladder cancer than any other cancer. EPA used the published mean risk estimates from five studies to quantify the potential range of risk for bladder cancer from DBP exposure. These risks were expressed as a range of population attributable risks (PAR) of 2–17% (USEPA 1998f). This means that if the associations reported in the studies turn out to reflect a causal link, between 2 and 17% of new bladder cancer cases could be attributable to DBPs. This PAR range also represents that portion of the bladder cancer cases that would not have occurred if the exposure to chlorinated drinking water were absent. A complete discussion of the Stage 1 DBPR bladder cancer PAR evaluation, including uncertainties and assumptions, can be found in the Stage 2 DBPR Economic Analysis (USEPA 2003i).

While EPA recognized the limitations of the epidemiological database for making risk estimates, the Agency believed that it was useful for developing an estimate of bladder cancer risk. The PARs were derived from measured risks (Odds Ratios and Relative Risk) based on the number of years exposed to chlorinated surface water. The uncertainties associated with these PAR estimates are largely due to the common prevalence of both the disease (bladder cancer) and exposure (chlorinated drinking water). EPA recognizes that risks from chlorinated drinking water may be lower or higher than those estimated from the epidemiological literature, and that the PAR range could include zero or be higher than 17%.

Using the PARs of 2% and 17%, EPA estimated that the number of possible bladder cancer cases per year potentially associated with exposures to DBPs in chlorinated drinking water could range from 1,100 to 9,300 cases. This was based on the estimate of 54,500 new bladder cancer cases per year nationally, as projected by the National Cancer Institute for 1997. A thorough discussion of cancer studies published prior to 1998 and possible

associations with DBP exposure can be found in the Stage 1 DBPR (USEPA 1998c).

2. New Epidemiological Cancer Studies

New studies published since the Stage 1 DBPR continue to support an association between bladder, colon and rectal cancers and exposure to chlorinated surface water (Yang *et al.* 1998; Koivusalo *et al.* 1998; King *et al.* 2000b). Based on the weight of evidence provided by the cancer epidemiology database, EPA has chosen to use the same PAR analysis to estimate the primary benefits from bladder cancer cases potentially avoided as a consequence of reducing the DBP levels from the Stage 2 DBPR (*see* section VII). For the Stage 2 DBPR analysis, EPA updated the 1997 estimate of new bladder cancer cases per year nationally from 54,500 to 56,500 (projected by the American Cancer Society, 2002) and accounted for the reductions in DBP exposure that were projected for the Stage 1 DBPR.

a. *New bladder cancer studies.* Bladder cancer and chlorinated DBP exposure has historically been the most strongly supported association of all the possible cancers, based on human evidence. Two new studies (Yang *et al.* 1998 and Koivusalo *et al.* 1998) also suggest an association of DBP exposure with bladder cancer. Yang *et al.* 1998 found a positive association between consumption of chlorinated drinking water and bladder cancer. Koivusalo *et al.* (1998) found evidence of increased risk as a function of increasing DBP exposure duration. Long exposure durations (≥45 years for Koivusalo *et al.* 1998) were associated with about a two-fold increase in risk. The new bladder cancer studies continue to support an association and potential for a causal relationship between exposure to chlorination byproducts and risk for bladder cancer.

A new publication by C.M. Villanueva *et al.* (Villanueva *et al.* 2003) reports on their meta-analysis of case-control and cohort studies. This meta-analysis may be useful for improving the estimate of national population attributable risk (fraction of bladder cancer cases in the U.S. that may be attributed to chlorinated drinking water). Compared to EPA's current approach (*i.e.*, providing a range of population attributable risks (PAR)), use of the meta-estimate would provide a more stable result because:

- It provides a single (meta) estimate of the odds ratio from which to calculate the PAR, thereby summarizing the results across studies, thus reducing the influence of geographic and temporal differences.
- It uses three additional high-quality studies not included in the PAR range analysis conducted by EPA (*i.e.*, studies by Koivusalo *et al.* 1998, Doyle *et al.* 1997, and Vena *et al.* 1993).
- It weights the individual studies according to their precision, so more precise estimates (due principally to greater numbers of cases) carry greater statistical weight and therefore have greater influence on the meta-estimate.
- In addition to the primary analysis, the authors conducted an evaluation of the robustness of their conclusions. They examined the sensitivity of estimates to decisions made with respect to exposure definitions, cut points defining exposure groups, inclusion/exclusion of individual studies, and potential publication bias.

The meta-analysis provided at least two meta-estimates that may be useful for estimating national population attributable risk:

- A combined odds ratio for ever-exposure, with confidence intervals and
- A combined dose-response regression slope coefficient, relating increasing odds ratios to additional years of chlorinated drinking water consumption.

EPA conducted an estimate of the impact of using the meta-analysis to provide a perspective on the national population attributable risk. This estimate is based on the author's correction of a minor transcription error in their published manuscript (the appropriate estimate for the King study yields corrected over-all odds ratio for ever-consumers of 1.2 with 95% confidence interval of 1.091 to 1.320, personal communication from M. Kogevinas to M. Messner, 5/19/2003). Assuming 70% of the U.S. population is in the ever-consumed category (based on the chlorinated surface water exposed population), a point estimate of the population attributable risk using the odds ratio from the meta-analysis is 12% (95% interval 6% to 18%). Although EPA's population attributable risk range (2% to 17%) was not intended to convey a quantified level of confidence, it is not vastly different from the meta-analysis' 95% confidence range of 6% to 18%. EPA regards the meta-range as additional support for EPA's population attributable risk range. The meta-analysis provides continued support for an association between exposure to chlorinated surface water and bladder cancer.

EPA requests comment on the use of a meta-estimated odds ratios to estimate national population attributable risk for the purpose of supporting the benefit analysis for this rule, either based specifically on the Villanueva *et al.* publication or on the application of a similar approach. EPA also solicits comments and suggestions for use of the combined dose-response regression slope coefficient associated with the increased risk of bladder cancer for each additional year's exposure to DBPs in drinking water for estimating the drop in risk associated with a reduction in DBPs as part of the benefit analysis of this rule. EPA provides further discussion and solicitation of comment on how the slope factor might further be considered in estimating the benefits of this rule in the economic section of this preamble.

b. *New colon cancer studies.* Colorectal cancer is the third most common type of new cancer cases and deaths in both men and women in the U.S. It is estimated that 148,300 new colorectal cancer cases will be diagnosed in 2002, with 56,600 resulting in deaths (American Cancer Society, 2002). Human epidemiology studies on chlorinated surface water have reported associations with colorectal cancer. Since the Stage 1 DBPR, two new human epidemiology studies (Yang *et al.* 1998 and King *et al.* 2000b) have been conducted to investigate the relationship between colon cancer and exposure to chlorinated surface water. Yang *et al.* 1998 did not identify an association between consumption of chlorinated drinking water and colon cancer. The King *et al.* (2000b) study found evidence of a DBP association with colon cancer among males, but no association was observed among females.

Similarity of effects reported in animal toxicity and human epidemiology studies strengthen the weight of evidence for an association between DBP exposure and colon cancer. Effects observed in animal studies which included tumors in BDCM exposed rats and mice at several sites (NTP 1987); colon tumors in bromoform exposed rats (NTP 1989); and development of aberrant crypt foci, a preneoplastic lesion of colon cancer in animals exposed to DBP mixtures (DeAngelo *et al.* 2002), are comparable to observations in some cancer epidemiological studies showing an association with colorectal cancer and consumption of chlorinated water (King *et al.* 2000b).

Even with the additional study showing an association, the epidemiological database on colon cancer as a whole is not as strong as that for bladder cancer. However, this new study increases the weight of evidence of an association between DBP exposure

and colon cancer. The Stage 1 DBPR (USEPA 1998c) includes additional discussion of colon cancer risks associated with DBP exposure.

c. *New rectal cancer studies.* The evidence for an association between DBPs and rectal cancer is stronger than for colon cancer. Yang *et al.* (1998) and Hildesheim *et al.* (1998) both found associations between chlorinated drinking water exposure and rectal cancer, and the associations had a similar magnitude in both sexes. Hildesheim *et al.* also found an association in both sexes with lifetime average THM concentration. The consistency of the dose-response trends, the consistency between sexes, and the apparent control of important potential confounders in this study all support the observed associations.

d. *Other cancers.* Two new human epidemiology studies support the possibility of an association between DBPs and kidney cancer. Yang *et al.* (1998) found a positive association for both males and females between consumption of chlorinated drinking water and kidney cancer. Koivusalo *et al.* (1998) found a small, statistically significant, exposure-related excess risk for kidney cancer for males. The association for females was not significant in the Koivusalo *et al.* 1998 study. The current database for this endpoint of cancer, however, is insufficient to conclude an association.

Cantor *et al.* (1999) studied brain cancer, focusing on gliomas. None of the exposure variables were related to brain cancer among females, but males showed a statistically significant, monotonically increasing risk associated with duration of exposure to chlorinated surface water. This study suggests a possible association between chlorination byproducts and gliomas; however, the evidence from this study is not strong enough to support a conclusion of a causal association.

Infante-Rivard *et al.* (2001) conducted a population-based case-control study in Quebec Province, Canada, to examine possible associations between childhood acute lymphoblastic leukemia and THMs. There were no associations with leukemia for any of the exposure indices for total THM, or specific THMs. Therefore, the study does not provide evidence of an association between any of the exposure variables and childhood leukemia.

3. Review of the Cancer Epidemiology Literature (WHO 2000)

The International Programme on Chemical Safety (IPCS) report on disinfectants and disinfection byproducts (WHO 2000) concludes that results of analytical epidemiological cancer studies are insufficient to support a causal relationship for bladder, colon, rectal, or any other cancer and chlorinated drinking water or THMs. The report notes that there is better evidence for an association between exposure to chlorinated surface water and bladder cancer than for other types of cancer. The WHO also concludes that based on the large number of people exposed to chlorinated drinking water, there is a need to address this potential health concern.

E. Cancer and Other Toxicology

Few new cancer toxicology studies have been completed since the Stage 1 DBPR was finalized in December 1998. The information provided in the following sections adds to the toxicology database and provides additional support for the Stage 2 DBPR to control DBP peaks (e.g, high TTHM and HAA5 levels) throughout distribution systems, but does not change the quantitative assessment of the MCLGs.

1. EPA Criteria Documents

To date, EPA has established lifetime cancer risk levels for four DBPs (bromoform, bromodichloromethane, bromate, and dichloroacetic acid) classified as ''probable'' carcinogens, as promulgated in the Stage 1 DBPR and reported in the Integrated Risk Information System (IRIS). Although researchers have continued to assess the cancer risks of DBPs, there has been little change in the overall DBP carcinogenicity database since the Stage 1 DBPR.

The most significant new publication since the Stage 1 DBPR was a study of DCAA tumorigenicity in mice by DeAngelo *et al.* (1999). The Agency has used the data from this study to revise the slope factor for DCAA and a drinking water 10^{-6} lifetime cancer risk concentration. The slope factor is a measure of the potency of a carcinogen while the 10^{-6} lifetime cancer risk concentration provides an estimate of the concentration of a contaminant in drinking water that is associated with an estimated excess lifetime cancer risk of one in a million (Table III–3).

Another significant advancement beyond the Stage 1 DBPR was the evaluation of the chloroform tumorigenicity data on the basis of its nonlinear mode of action following the draft 1999 proposed Guidelines for Carcinogen Risk Assessment (USEPA 1999a). The new chloroform assessment became available on IRIS (2001) in October, 2001 (see section V for a more detailed discussion).

The Criteria Documents for bromoform, bromodichloromethane, dibromochloromethane, and dichloroacetic acid that support the Stage 2 proposal include cancer slope factors and 10^{-6} lifetime cancer risk concentrations that have been modified from their Stage 1 values in order to reflect the methodology proposed in the 1996/1999 draft cancer guidelines (USEPA 1999a) (Table III–3). These include the values based on the Maximum Likelihood Estimate of the dose producing effects in 10 percent of the animals (ED_{10}) and from the lower 95 percent confidence bound on that value (LED_{10}). Except for dibromochloromethane, which is classified as a possible human carcinogen, the DBPs in Table III–3 (and bromate as noted previously) are classified as probable human carcinogens.

TABLE III—3.—QUANTIFICATION OF CANCER RISK

Disinfection byproduct	Risk factors from LED_{10}		Risk factors from ED_{10}	
	Slope factor $(mg/kg/day)^{-1}$	10^{-6} Risk concentration (mg/L)	Slope factor $(mg/kg/day)^{-1}$	10^{-6} Risk concentration (mg/L)
Bromodichloromethane	0.034	0.001	0.022	0.002
Bromoform	0.0045	0.008	0.0034	0.01
Dibromochloromethane	0.04	0.0009	0.017	0.002
Dichloroacetic Acid	0.048	0.0007	0.014	0.003

EPA believes that it is important to pursue additional research on cancer from DBPs. EPA has several ongoing studies in addition to a collaboration with the National Toxicology Program of the National Institute of Environmental Health Sciences. More information on EPA's toxicology research program can be found at *http://www.epa.gov/nheerl.*

2. Other Byproducts with Carcinogenic Potential

a. *3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone) (MX)—multisite cancer.* MX is a byproduct of chlorination that is typically found at very low concentrations (approximately <0.000067 mg/L) in drinking water. The information available on MX was recently compiled in the *Quantitative Cancer Assessment for MX and chlorohydroxyfuranones* (USEPA 2000i). Overall, the weight of evidence indicates that MX is a direct-acting genotoxicant in mammals, with the ability to induce tumors in multiple sites. The primary sites for tumor formation are the thyroid and liver.

b. *N-nitrosodimethylamine (NDMA)—multisite cancer.* Health effects data indicate that NDMA is a probable human carcinogen, as described on IRIS (1991). Risk assessments have estimated that the 10^{-6} lifetime cancer risk level is 0.000007 mg/L based on induction of tumors at multiple sites. Recent studies have produced new information on the occurrence and mechanism of formation of NDMA but there is not enough information at this time to draw conclusions. More research is underway to determine the mechanism by which NDMA is formed in drinking water, and the extent of its occurrence in chloraminated systems.

3. Other Toxicological Effects

The Agency has modified the reference dose (RfD) values for 2 of the chlorinated acetic acids since the Stage 1 DBPR. Under the Stage 1 DBPR there was no established RfD for monochloroacetic acid (MCAA). Data from a drinking water exposure study of MCAA in rats by DeAngelo *et al.* (1997) were used to establish an RfD of 0.004 mg/kg/day based on observed increases in spleen weight. Data from DeAngelo (1997) were also used to calculate a new RfD of 0.03 mg/kg/day for trichloroacetic acid (TCAA) based on observed effects on body weight and liver effects. Detailed discussions of the new reference doses are located in section V of this preamble.

4. WHO Review of the Cancer Toxicology Literature (2000)

The IPCS report on Disinfectants and Disinfection Byproducts (WHO 2000) emphasizes that the bulk of the toxicology data focuses primarily on carcinogenesis. The Task Group found BDCM to be of particular interest because it produces tumors in both rats and mice at several sites. Although the HAAs appear to be without significant genotoxic activity, the brominated HAAs appear to induce oxidative damage to DNA, leading to tumor formation.

F. Conclusions Drawn From the Cancer Epidemiology and Toxicology

EPA believes that the cancer epidemiology and toxicology databases provide important information that contributes to the weight of evidence evaluation of the potential health risks from exposure to chlorinated drinking water. At this time the cancer epidemiology studies are insufficient to establish a causal relationship between exposure to chlorinated drinking water and cancer, but EPA does believe there is a potential association. The current database is sufficient for quantitative analysis on the endpoint of bladder cancer, as presented previously in the PAR analysis.

The association between DBP exposure and colon cancer remains more tenuous than the link to bladder cancer, although similarity of effects reported in animal toxicity and human epidemiology studies strengthens the weight of evidence for an association between DBP exposure and colon cancer. Studies finding potential relationships between exposure to chlorinated drinking water and rectal, kidney, and brain cancer also add to the weight of evidence for a public health concern. EPA believes that the overall cancer epidemiology and toxicology data support the decision to pursue additional DBP control measures as reflected in the Stage 2 DBPR.

G. Request for Comment

EPA requests comment on the conclusions drawn from the new health information summarized in this section. EPA requests comment on the weight of evidence evaluation of the potential reproductive and developmental hazards from DBPs and its potential implications for the regulatory provisions for the final Stage 2 DBPR. EPA solicits any additional data on the reproductive or developmental effects from DBPs that need to be considered for the final Stage 2 DBPR.

EPA requests comment on EPA's conclusions regarding cancer epidemiology and toxicology, and the new studies discussed in today's proposal. EPA solicits any additional cancer epidemiology and toxicology data that need to be considered for the final Stage 2 DBPR.

EPA also solicits any health information available to further assess risk to sensitive subpopulations, especially children and the elderly.

IV. DBP Occurrence Within Distribution Systems

New information on the occurrence of DBPs in distribution systems raises issues about the protection provided by the Stage 1 DBPR. This section presents the new information used to identify key issues and to support the development of the Stage 2 DBPR. For a more detailed discussion see the *Stage 2 Occurrence Assessment for Disinfectants and Disinfection Byproducts* (USEPA 2003o).

Under the Stage 1 DBPR, compliance with the DBP MCLs is determined by averaging, annually and system-wide, all DBP measurements. The following discussion shows that compliance based on system averages of DBP concentrations allows a significant number of sampling locations within distribution systems to have DBP levels above the MCLs. These peak DBP occurrences are masked by averaging with lower distribution system occurrence levels. The populations served by portions of the distribution system with higher DBP concentrations are not receiving the same level of health protection.

The new information also shows that the highest DBP levels often do not occur at distribution system sites identified as representing maximum residence time. The information further shows that the highest TTHM and HAA5 levels often do not occur at the same site within the distribution system. These two findings suggest that it is appropriate to reevaluate the Stage 1 DBPR compliance monitoring sites in order to target those sites with high DBP levels. EPA believes that distribution system compliance monitoring sites need to be reevaluated to ensure identification of sites that reflect both high TTHM and HAA5 occurrence.

A. Data Sources

1. Information Collection Rule Data

The Information Collection Rule (USEPA 1996a) established monitoring and data reporting requirements for large public water systems. Under the Information Collection Rule, systems serving at least 100,000 people were required to conduct DBP and DBP-

related monitoring. The 18 months of required monitoring, which began in July 1997 and ended in December 1998, applied to 296 public water systems (500 treatment plants).

The Information Collection Rule data show the national occurrence of: (1) Influent water quality parameters; (2) primary and secondary disinfectant use by the large plants; (3) occurrence of DBPs and DBP precursors in treatment plants, finished waters, and distributions systems; (4) microbial occurrence (in subpart H systems only); and (5) treatment plant monthly operation, and initial as well as final treatment plant design. The data were gathered after the Stage 1 DBPR was finalized (USEPA 1998c) but well before systems were required to meet Stage 1 DBPR requirements.

The Information Collection Rule required a significant investment for the water treatment industry, as well as for the EPA to analyze the data. Overall, the occurrence and treatment data collected under the Information Collection Rule, excluding microbial data, was estimated to cost systems $54 million (USEPA 1996a). In addition, systems using source waters with high DBP precursor levels were required to conduct bench and pilot studies to evaluate the effectiveness of granular activated carbon (GAC) and membrane technology to control for DBPs. The estimated cost for these studies totaled approximately $57 million (USEPA 1996a).

In addition to the analysis of DBPs in distribution systems, EPA used occurrence data from the Information Collection Rule to confirm selection of TTHM and HAA5 as appropriate contaminants for monitoring DBPs. EPA also used occurrence data from the Information Collection Rule to confirm differences in monitoring requirements for systems using surface water versus those using ground water, as stipulated under the Stage 1 DBR. Analysis of the Information Collection Rule data indicates that TTHM and HAA5 comprise on average, across all systems, about 50% of the total mixture of chlorinated DBPs and that TTHM and HAA5 concentrations are much lower and less variable in ground water systems than in surface water systems. These results support the basis for continuing the use of TTHM and HAA5 as indicators for controlling chlorinated DBPs. The data also reconfirmed that ground water systems require less monitoring than surface water systems based on lower and less variable DBP occurrence. For detailed analysis, see *Stage 2 Occurrence Assessment for Disinfectants and Disinfection Byproducts* (USEPA 2003o).

2. Other Data Sources Used To Support the Proposal

Table IV–1 summarizes the data sources other than the Information Collection Rule used to support the Stage 2 DBPR. The data from the Information Collection Rule is from large systems. To validate the conclusions drawn from analysis of the Information Collection Rule for small and medium systems, EPA compared these other data sources with the Information Collection Rule data. EPA found that there are significant similarities between large systems and medium and small systems with regard to source water quality (affecting DBP formation) and use of treatment technologies. Because of these similarities, EPA expects that small and medium systems would find DBP distribution system levels similar to those found in large systems following compliance with the Stage 1 DBPR requirements. For detailed discussion of this analysis, see *Stage 2 Occurrence Assessment for Disinfectants and Disinfection Byproducts* (USEPA 2003o) and *Economic Analysis for the Stage 2 Disinfection Byproducts Rule* (USEPA 2003i).

TABLE IV–1.—SUMMARY OF NON-INFORMATION COLLECTION RULE OCCURRENCE SURVEY DATA

Data source	Data collected	Geographic representation	Number of plants (By population served)
Information Collection Rule Supplemental Survey.	Raw source water-(Large Systems) TOC Raw source water-(Small & Medium Survey Systems) TOC, UV 254, bromide, turbidity, pH, & temperature.	Random national distribution by SW source type [1].	47 serving 100,000 or more. 40 serving 10,000–99,999. 40 serving fewer than 10,000.
WaterStats	Population served and flows Raw source water—Water Quality Parameters (WQPs), Source water type. Finished water-WQPs, TTHM, HAAs Treatment-unit processes, disinfectant used.	Random national distribution.	219 serving 100,000 or more. 623 serving 10,000–99,999. 30 serving fewer than 10,000.
National Rural Water Association Survey (NRWAS).	Population served and flows Raw source water-temperatures, turbidity, pH, and source water type, bromide, TOC, UV 254, alkalinity, calcium, and total hardness. Finished water-residence time estimate, total and individual THMs, individual HAAs and HAA5, HAA6, HAA9,TOC, UV 254, Bromide, Temperature, pH, free and total chlorine residual levels. Treatment-unit processes, disinfectant used.	Random national distribution.	117 serving fewer than 10,000.
State Data-Surface Water ..	Distribution system TTHM occurrence data.	AK, CA, IL, MN, MS, NC, TX, WA [2].	562 serving fewer than 10,000.
State Data-Ground Water ..	Distribution system TTHM occurrence data.	AK, CA, FL, IL, NC, TX, WA [2].	2336 serving fewer than 10,000.
Ground Water Supply Survey.	TOC and TTHM (one sample for each parameter at the entry point to distribution system.)	Random national distribution.	979 total.

[1] Source type designations include flowing stream and lake/reservoir (Except for 7 large plants pre-selected).

[2] Over 50 percent of each State's systems are represented. EPA believes that the data reasonably represent a full range of source water quality in small systems at the national level.

B. DBPs in Distribution Systems

EPA wanted to understand DBP occurrence in distribution systems likely to exist after implementation of the Stage 1 DBPR. Such an understanding would enable EPA to recognize options on how to improve protection under the Stage 2 DBPR. The analysis of occurrence data to support the Stage 2 DBPR is complicated because available national occurrence data do not reflect the changes in occurrence resulting from the implementation of the Stage 1 DBPR. Many utilities have only recently changed their treatment to comply with the Stage 1 DBPR (subpart H systems serving 10,000 people or more were required to comply beginning January 2002) or are about to make changes in treatment to comply with this rule (subpart H systems serving fewer than 10,000 people and ground water systems are required to comply beginning January 2004).

To address the above issue, EPA evaluated Stage 1 DBPR implications by using Information Collection Rule data from plants that would not exceed the Stage 1 DBPR TTHM and HAA5 MCLs as an annual average. The TTHM and HAA5 data consist of quarterly measurements in four locations in distribution systems associated with each Information Collection Rule treatment plant. Two samples were collected at sites representing average residence time (AVG1 and AVG2), one sample at a site intended to represent the maximum residence time (MAX), and one sample was reported as a distribution system equivalent (DSE). The DSE sample was generally representative of average residence times. EPA believes that the monitoring locations of the Information Collection Rule, while not necessarily being the same as the Stage 1 DBPR compliance monitoring sites, provide a close approximation of monitoring under the Stage 1 DBPR. EPA recognizes, however, that data for plants that are in compliance with Stage 1 MCLs even without installing additional treatment (perhaps because of low source water TOC) are not necessarily reflective of plants that make treatment changes to comply with the Stage 1 DBPR.

1. DBPs Above the MCL Occur at Some Locations in a Substantial Number of Plants

Figure IV–1 compares the TTHM running annual average (RAA) levels with the single highest TTHM concentration in the distribution system. Twenty one percent (60 of 290) of the Information Collection Rule plants had single TTHM concentrations higher than the 0.080 mg/L MCL. Figure IV–2 makes the same comparison for HAA5. Fourteen percent (40 of 290) of the plants meeting the Stage 1 DBPR MCL had single HAA5 concentrations higher than the 0.060 mg/L MCL. In systems with a low RAA for TTHM and HAA5, the highest single TTHM and HAA5 values are generally not much higher than the respective Stage 1 DBPR MCLs. However, as the RAAs increase, there is a greater likelihood of having peak levels above the MCLs. As the RAAs approach the Stage 1 DBPR MCLs, some of the distribution system single highest concentrations approach levels that are double the Stage 1 DBPR MCLs.

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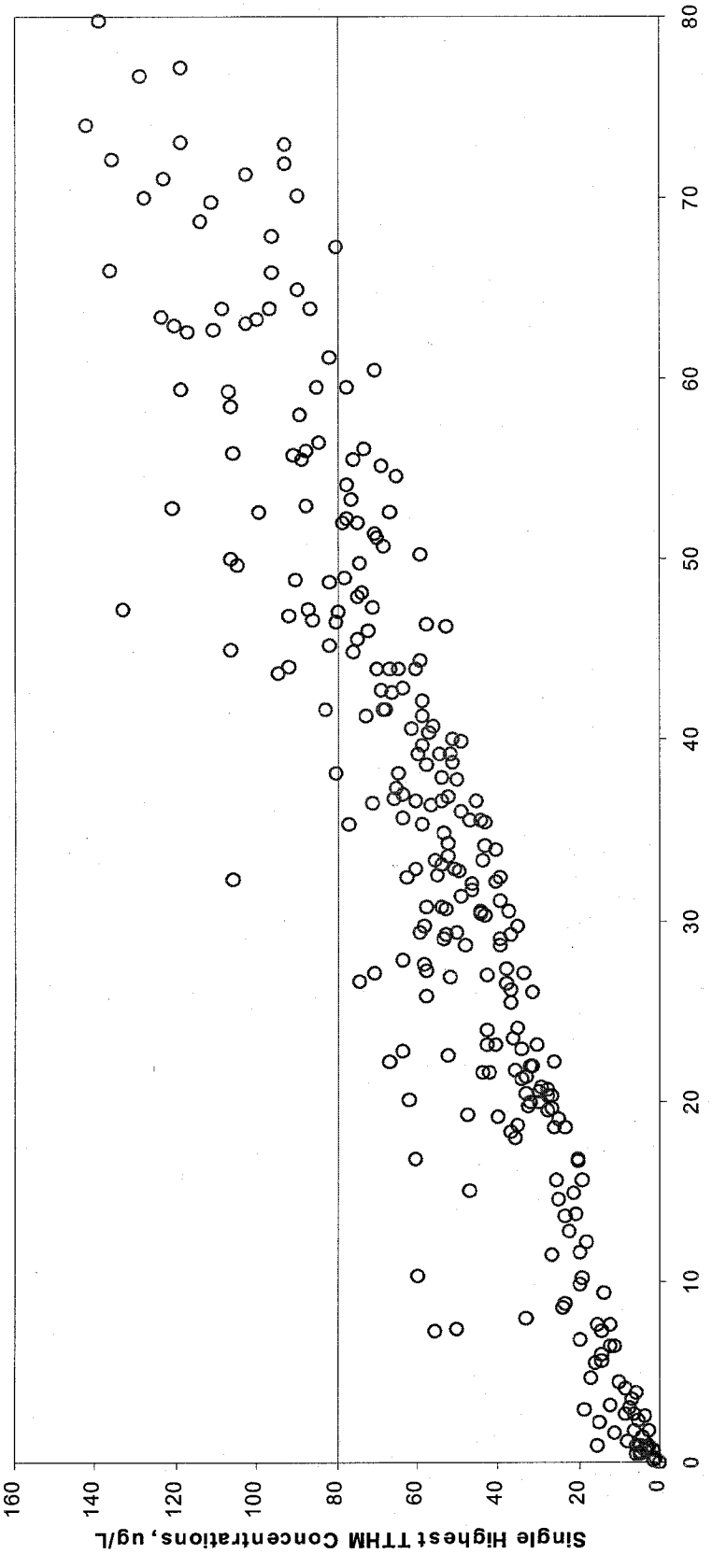
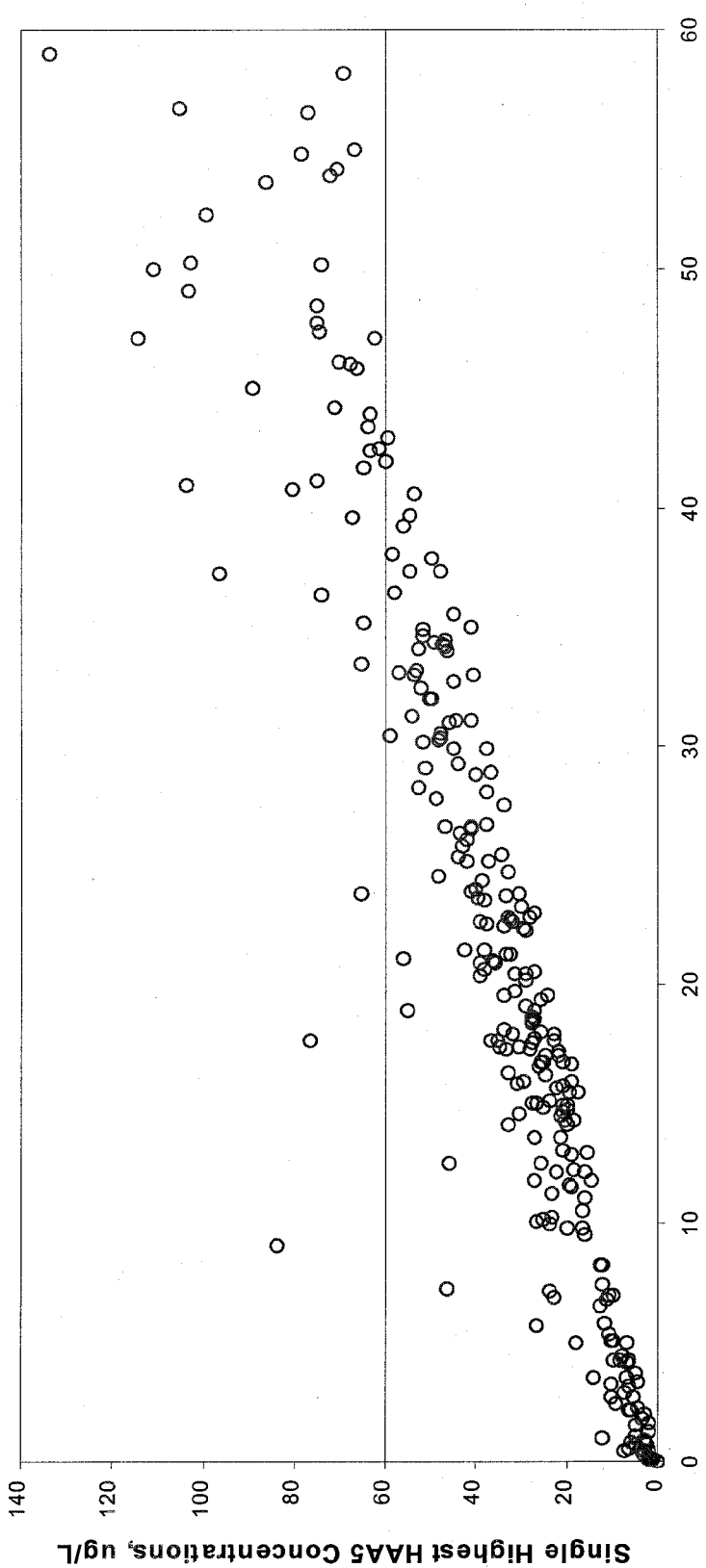
Figure IV-1. Single Highest TTHM Concentrations Versus TTHM RAA Concentrations for Plants Meeting Stage 1 DBPR MCLs



[1] Includes only the Information Collection Rule plants with at least 3 quarters of data and with each quarter having at least 3 sampling locations for both TTHM and HAA5 during the last 4 quarters of the Information Collection Rule sampling period.

Figure IV-2 Single Highest HAA5 Concentrations Versus HAA5 RAA Concentrations for Plants Meeting Stage 1 DBPR MCLs



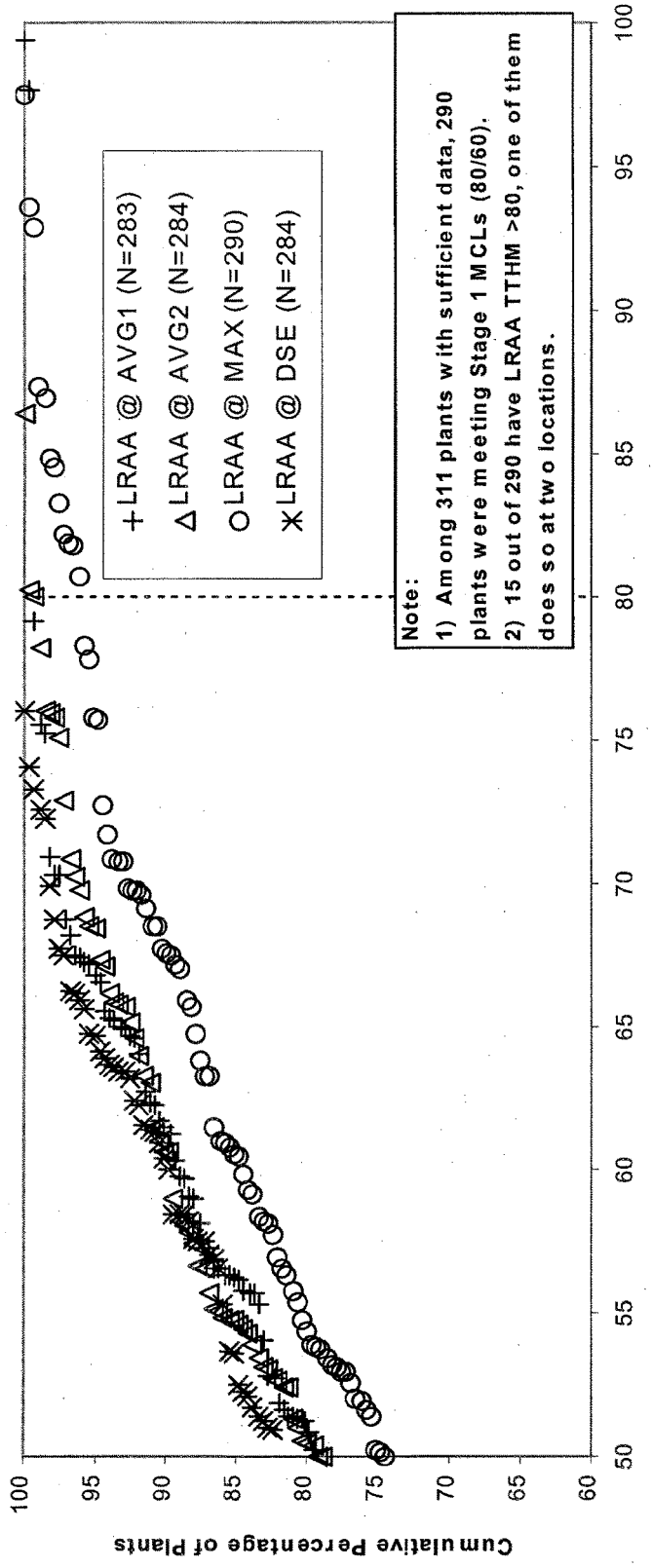
[1] Includes only the Information Collection Rule plants with at least 3 quarters of data and with each quarter having at least 3 sampling locations for both TTHM and HAA5 during the last 4 quarters of the Information Collection Rule sampling period.

2. Specific Locations in Distribution Systems Are Not Protected to MCL Levels

Data from the Information Collection Rule show that the RAA compliance calculation may allow specific locations in a distribution system to regularly receive water with DBP levels that exceed the MCL. Figure IV–3 shows that five percent of plants (15 out of 290) had one or more locations that, on average, exceeded 0.080 mg/L as a TTHM LRAA for that same year. One of the 15 plants that exceeded a TTHM LRAA of 0.080 mg/L did so at two locations. Of the 15 plants, the highest LRAA was between 0.080 and 0.090 mg/L at 10 plants, and between 0.090 and 0.100 mg/L at 5 plants. Customers served at these locations regularly received water with TTHM concentrations somewhat higher than the MCL.

Figure IV–4 shows similar results based on Information Collection Rule HAA5 data. Three percent of plants (eight of 290) exceeded 0.060 mg/L as an LRAA, and three of these eight plants did so at two or three locations. Of the 8 plants, the highest LRAA was between 0.060 and 0.070 mg/L at 5 plants, and between 0.070 and 0.075 mg/L at 3 plants. Among the 290 plants in the Information Collection Rule database meeting the Stage 1 MCLs, 19 plants have a maximum TTHM LRAA of 0.080 mg/l or greater or a maximum HAA5 LRAA of 0.060 mg/l or greater (four plants exceeded both MCLs), though in no case did DBP levels at a given location consistently exceed the MCL by more than 20%.

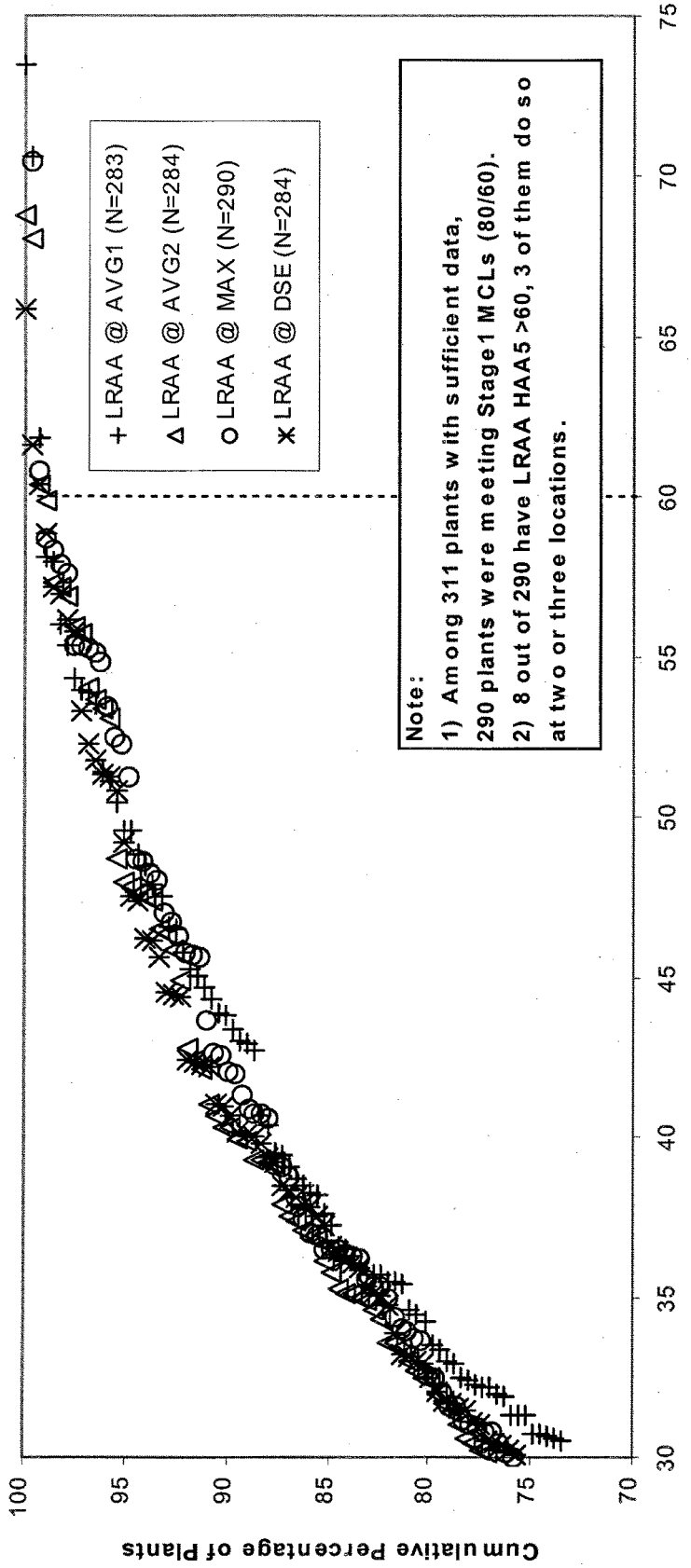
Figure IV-3. Cumulative Percentage of TTHM LRAAs for Surface Water Plants[1,2]



The data shown are for surface water plants that would not exceed the Stage 1 DBPR TTHM and HAA5 MCLs when calculated using the last 4 quarters of Information Collection Rule data.

[2] Includes only the Information Collection Rule plants with at least 3 quarters of data and with each quarter having at least 3 sampling locations for both TTHM and HAA5 during the last 4 quarters of the Information Collection Rule sampling period.

Figure IV-4. Cumulative Percentage of HAA5 LRAAs for Surface Water Plants[1,2].



[1] The data shown are for surface water plants that would not exceed the Stage 1 DBPR TTHM and HAA5 MCLs when calculated using the last 4 quarters of Information Collection Rule data.

[2] Includes only the Information Collection Rule plants with at least 3 quarters of data and with each quarter having at least 3 sampling locations for both TTHM and HAA5 during the last 4 quarters of the Information Collection Rule sampling period.

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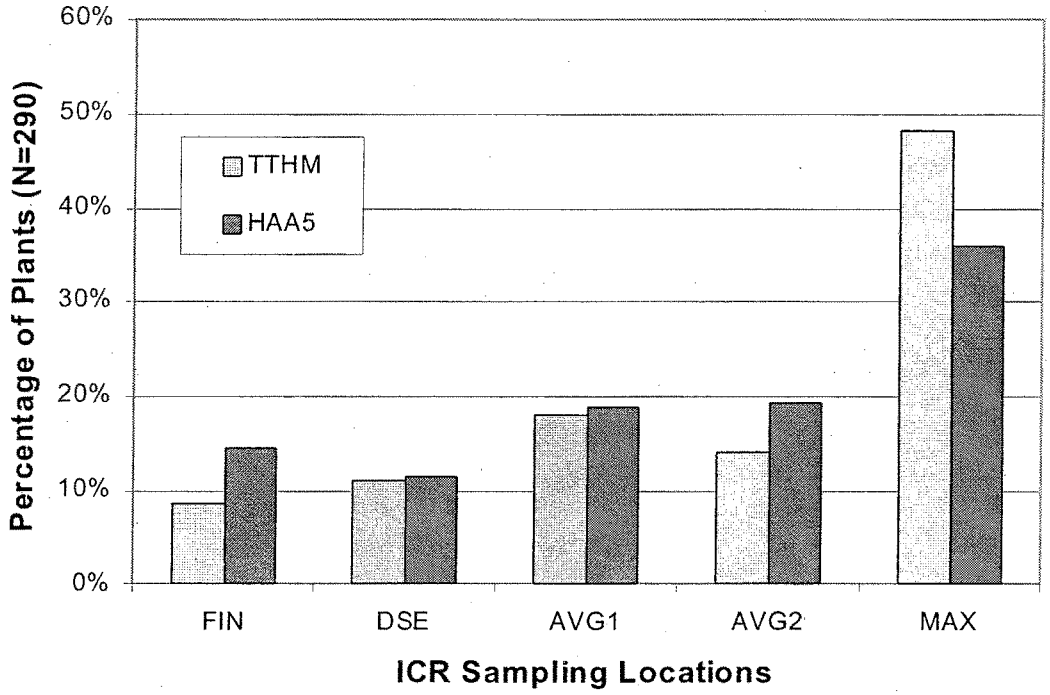
3. Stage 1 DBPR Maximum Residence Time Location May Not Reflect the Highest DBP Occurrence Levels

The 1979 TTHM rule and Stage 1 DBPR monitoring locations must include a site reflection maximum residence time in the distribution system with the intent of capturing the highest DBP levels in the distribution system. The Information Collection rule referred to this specific location as MAX. The Information Collection rule data indicate two important results: (1) that monitoring locations identified as the maximum residence time locations often did not represent those locations with the highest DBP levels and (2) the highest TTHM and HAA5 level often occurred at different points in the distribution system.

Figure IV–5 illustrates that the highest TTHM and HAA5 LRAAs could be at any of the four Information Collection Rule sample locations in the distribution system or, in some cases, at the finished water location. Fifty percent of the plants evaluated have the highest TTHM LRAA concentration occurring at a site other than the maximum residence time monitoring site. over 60% of plants evaluated had the highest HAA5 LRAA at a location other than the maximum residence time monitoring site.

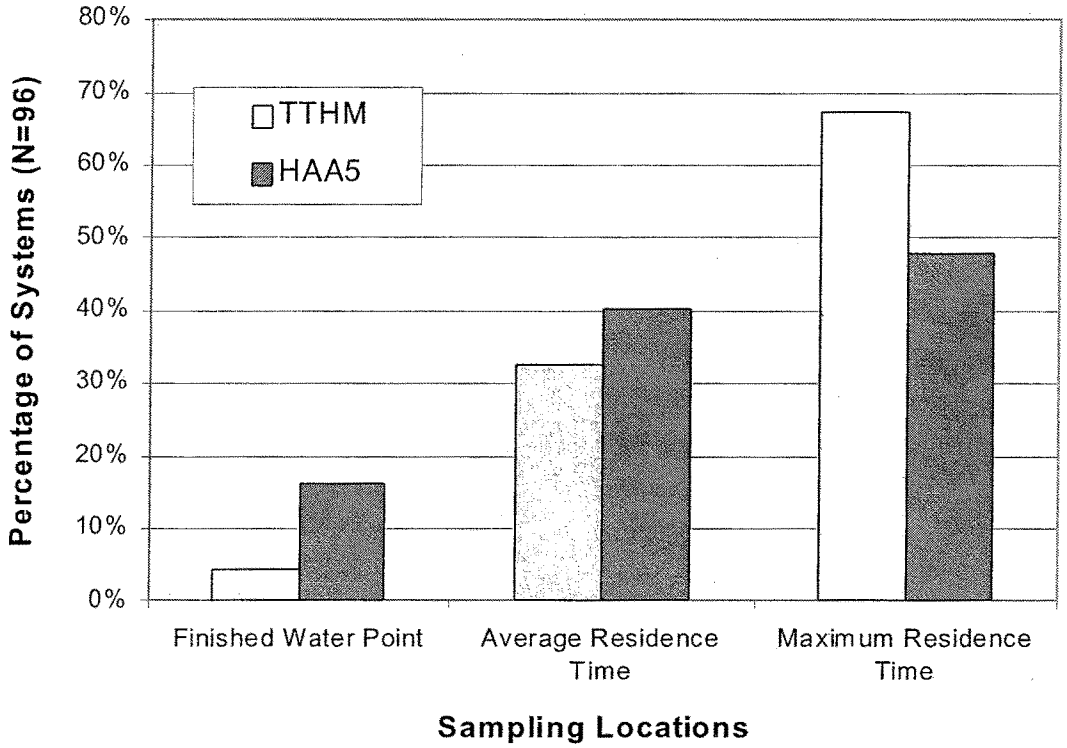
Figure IV–6, based on data from the National Rural Water Survey (NRWS), indicates that systems serving fewer than 10,000 people also frequently have their highest TTHM and HAAS levels at locations other than those intended to represent maximum residence time. The occurrence patterns indicated in Figures IV–5 and IV–6 may be due to several factors, such as HHA5 degrading over time in the distribution system, maximum residence time monitoring sites not actually representing the maximum residence time, or that using a simple estimation of maximum residence time cannot characterize a complex distribution system.

Figure IV-5. Frequency at Which Highest TTHM or HAA5 Locational Annual Average Concentrations Occurred at Each Information Collection Rule Sampling Location for plants meeting Stage 1 MCLs[1]



[1] Includes only the Information Collection Rule plants with at least 3 quarters of data and with each quarter having at least 3 sampling locations for both TTHM and HAA5 during the last 4 quarters of the Information Collection Rule sampling period.

Figure IV-6 Frequency at Which Highest TTHM or HAA5 Locational Annual Average Concentrations Occurred at Each Monitoring Location in NRWA Survey



Note: LRAA calculation is based on the results from two sampling events at each of sampling locations in the NRWA survey (winter and summer months). Only plants having monitoring results for both winter and summer months are included in the data set.

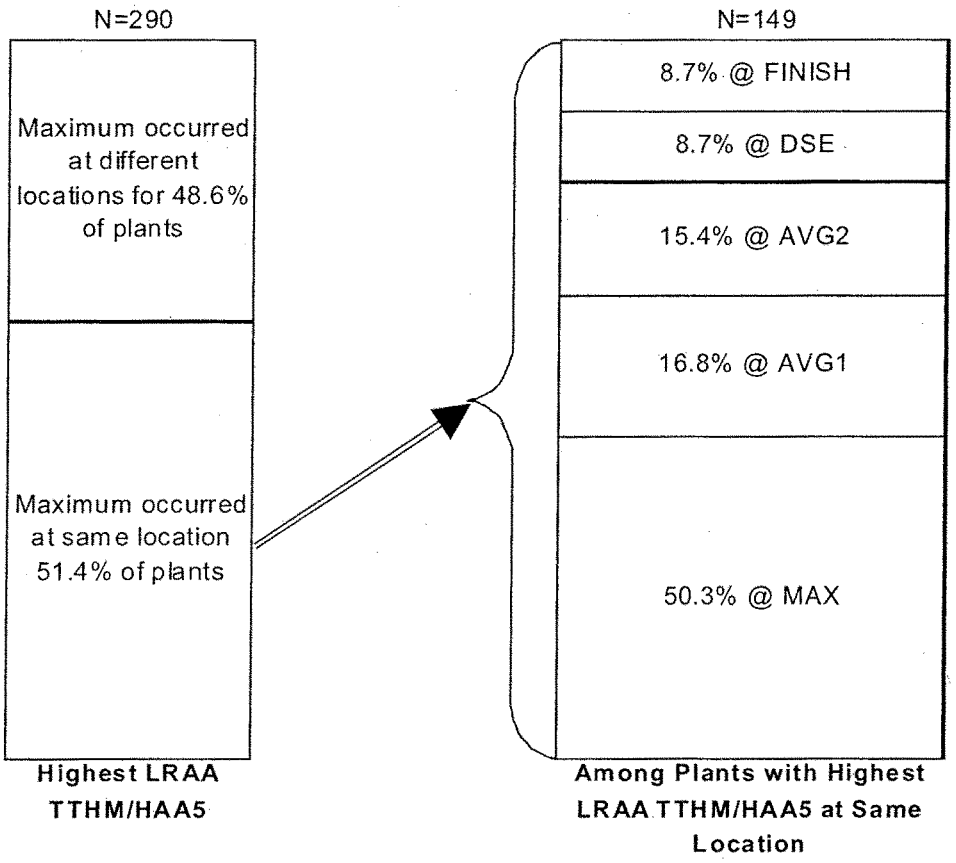
EPA also analyzed whether the highest LRAA for TTHM and HAA5 occurred at the same location. If TTHM and HAA5 occur at the same location rather than different locations, fewer monitoring sites would be needed to represent TTHM and HAA5 occurrence. However, this is not the case. The Information Collection Rule and NRWA data sets, respectively, indicate that 49% and 44% of plants experienced their highest LRAA TTHM and HAA5 concentrations at different locations in the distribution system.

For plants that did have their highest LRAA TTHM and HAA5 concentrations at the same location, it was not necessarily the maximum residence time monitoring location. Figure IV–7 illustrates that for the Information Collection Rule plants with the highest TTHM and HAA5 levels occurring at the same location, the highest TTHM and HAA5 LRAA simultaneously occurred at the maximum residence time monitoring location in 50% of the cases. Figure IV–8 illustrates that for the NRWA plants with the highest TTHM and HAA5 levels occurring at the same location, the highest TTHM and HAA5 LRAA simultaneously occurred at the maximum residence time (MAX) monitoring location in 64% of the cases.

C. Request for Comment

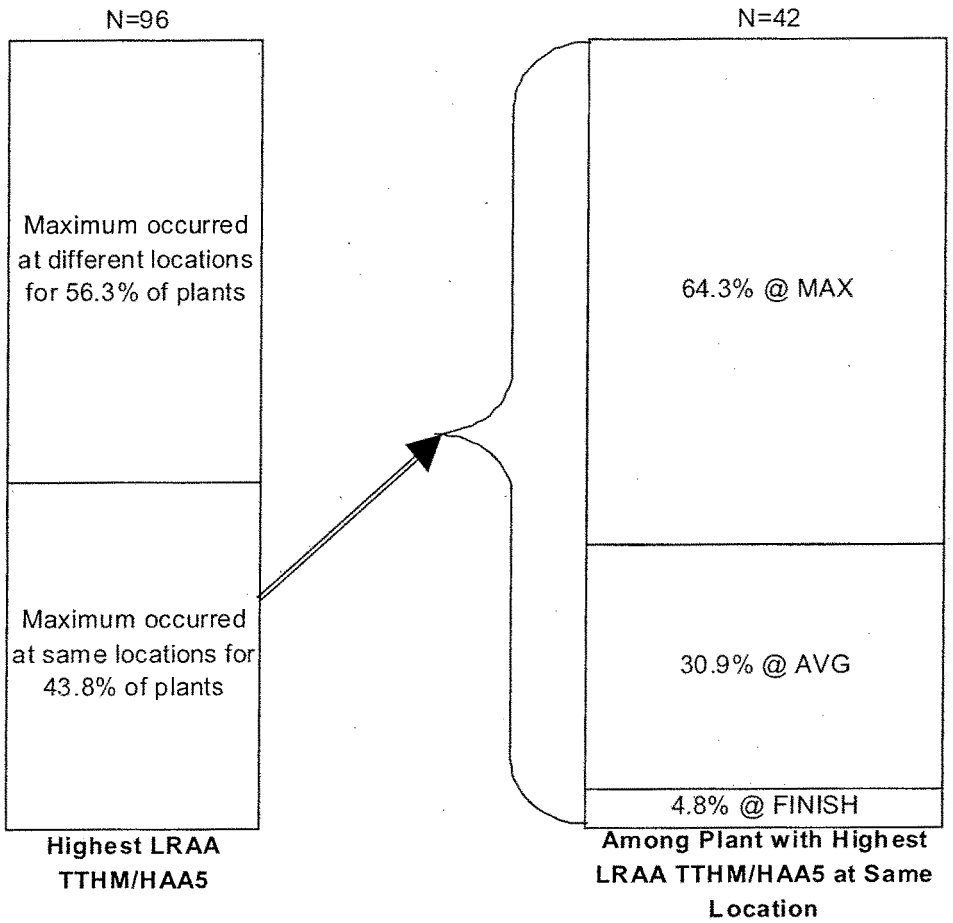
EPA requests comment on the analysis presented in this section. Is EPA's approach for representing post Stage 1 DBPR occurrence appropriate? What other approaches might be used? Are the conclusions that EPA derives from the analysis appropriate?

Figure IV-7. Frequency at Which Highest TTHM/HAA5 LRAAs Occurred at Same Sampling Location (Based on the Information Collection Rule data) for plants meeting Stage 1 MCLs. [1]



[1]Includes only the Information Collection Rule plants with at least 3 quarters of data and with each quarter having at least 3 sampling locations for both TTHM and HAA5 during the last 4 quarters of the Information Collection Rule sampling period.

Figure IV-8. Frequency at Which Highest TTHM/HAA5 LRAAs Occurred at Same Sampling Location (Based on the data from NRWA Survey)



Note: LRAA calculation is based on the results from two sampling events at each of sampling locations in the NRWA survey (winter and summer months). Only plants having monitoring results for both winter and summer months are included in the data set.

V. Discussion of Proposed Stage 2 DBPR Requirements

A. MCLG for Chloroform

1. What Is EPA Proposing Today?

EPA is proposing an MCLG for chloroform of 0.07 mg/L based on a cancer reference dose (RfD), an assumption that a person drinks 2 liters of water per day (the 90th percentile of intake rate for the U.S. population), and a relative source contribution (RSC) of 20 percent. The MCLG is proposed at a level at which no adverse effects on the health of persons is anticipated with an adequate margin of safety. This conclusion is based on toxicological evidence that the carcinogenic effects of chloroform are an ultimate consequence of sustained tissue toxicity. The MCLG is set at a daily dose for a lifetime at which no adverse effects will occur because the sustained tissue toxicity, which is a key event in the cancer mode of action of chloroform, will not occur (USEPA 2001b).

EPA believes that the RfD used for chloroform is protective of sensitive groups, including children. This RfD was developed by the EPA current method for developing RfDs based on animal data. The method is designed to be protective by taking human variability into account and assuming that the average human will be as sensitive as the most responsive animal species. EPA's understanding of the mode of action for chloroform does not indicate a uniquely sensitive subgroup or an increased sensitivity in children.

2. How Was This Proposal Developed?

a. *Background.* EPA proposed a zero MCLG for chloroform in the 1994 Stage 1 DBPR proposal (USEPA 1994b). Following the proposal, numerous toxicological studies on chloroform were published and were discussed in two Notices of Data Availability (NODAs) (USEPA 1997a; USEPA 1998e). The 1998 NODA presented substantial scientific data related to the mode of action as part of the chloroform risk assessment and requested comment on a chloroform MCLG of 0.3 mg/L that reflected a nonlinear mode of action. After considering comments on the NODAs, EPA determined that further deliberations with the Science Advisory Board (SAB) and stakeholders were needed before changing the MCLG for chloroform. Thus, EPA promulgated a chloroform MCLG of zero in the final Stage 1 DBPR (USEPA 1998c) and committed to conducting additional deliberations with the SAB and factoring the SAB's review into the Agency's Stage 2 DBPR rulemaking

process. The Agency consulted with the SAB in October 1999 (USEPA 2000f).

The Stage 1 DBPR MCLG of zero for chloroform was challenged, and the U.S. Court of Appeals for the District of Columbia Circuit issued an order vacating the zero MCLG (*Chlorine Chemistry Council and Chemical Manufacturers Association* v. *EPA,* 206 f.3d 1286 (D.C. Circuit 2000)). EPA committed to the Court to propose a non-zero MCLG for chloroform in the upcoming proposed Stage 2 Disinfectants and Disinfection Byproducts Rule. EPA removed the MCLG for chloroform from its Stage 1 DBP NPDWR (USEPA 2000e). No other provision of the Stage 1 DBPR was affected.

b. *Basis of the new chloroform MCLG.* Based on an analysis of all the available scientific data on chloroform discussed in more detail below, EPA believes that chloroform dose-response is nonlinear and that chloroform is likely to be carcinogenic only under high exposure conditions. EPA's assessment of the cancer risk associated with chloroform exposure (USEPA 2001b) uses the principles of the 1999 EPA Proposed Guidelines for Carcinogen Risk Assessment (USEPA 1999a).

The Proposed Guidelines for Carcinogen Risk Assessment, as reviewed by the public and the EPA SAB, reflect new science and are consistent with, and an extension of, the existing 1986 Guidelines for Carcinogen Risk Assessment (USEPA 1986). The 1986 guidelines provide for departures from default assumptions such as low dose linear extrapolation. For example, the 1986 EPA guidelines reflect the position of the Office of Science and Technology Policy (OSTP) that (OSTP 1985; Principle 26) ''[N]o single mathematical procedure is recognized as the most appropriate for low-dose extrapolation in carcinogenesis. When relevant biological evidence on mechanisms of action exists (e.g, pharmacokinetics, target organ dose), the models or procedure employed should be consistent with the evidence.'' The 1985 guidelines go on to state ''The Agency will review each assessment as to the evidence on carcinogenesis mechanisms and other biological or statistical evidence that indicates the suitability of a particular extrapolation model.''

i. *Mode of action.* EPA has fully evaluated the science on chloroform and concludes that chloroform is likely to be carcinogenic to humans under high exposure conditions that lead to cytotoxicity and regenerative hyperplasia in susceptible tissue; chloroform is not likely to be carcinogenic to humans at a dose level that does not cause cytotoxicity and cell regeneration (USEPA 1998e, USEPA 1998b, USEPA 2001b).

Chloroform's carcinogenic potential is indicated by animal tumor evidence (liver tumors in mice and renal tumors in both mice and rats) from inhalation and oral exposure. Data on metabolism, toxicity, mutagenicity and cellular proliferation contribute to an understanding of the mode of carcinogenic action. For chloroform, sustained or repeated cytotoxicity with secondary regenerative hyperplasia precedes, and is a key event for, hepatic and renal neoplasia.

EPA believes that a DNA reactive mutagenic mode of action is not likely to be the predominant influence of chloroform on the carcinogenic process. EPA has concluded that the predominant mode of action involves cytotoxicity produced by the oxidative generation of highly reactive metabolites, followed by regenerative cell proliferation (USEPA 2001b). EPA further believes that the chloroform dose-response is nonlinear. The SAB final report states ''(t)he Subcommittee agrees with EPA that sustained or repeated cytotoxicity with secondary regenerative hyperplasia in the liver and/or kidney of rats and mice precedes, and is probably a causal factor for, hepatic and renal neoplasia'' (USEPA 2000f).

ii. *Metabolism.* The cytochrome P450 isoenzyme CYP 2E1 is the primary enzyme catalyzing chloroform metabolism at low concentrations. Chloroform's carcinogenic effects involve oxidative generation of reactive and toxic metabolites (phosgene and hydrochloric acid [HCl]) and thus are related to its noncancer toxicities (*e.g.*, liver or kidney toxicities). The electrophilic metabolite phosgene could react with macromolecules such as phosphotidyl inositols or tyrosine kinases which in turn could potentially lead to interference with signal transduction pathways (*i.e.*, chemical messages controlling cell division), thus leading to carcinogenesis. Likewise, it is also plausible that phosgene reacts with cellular phospholipids, peptides and proteins resulting in generalized tissue injury. Glutathione, free cysteine, histidine, methionine and tyrosine are all potential reactants for electrophilic agents.

At high concentrations, chloroform may undergo reductive metabolism which forms reactive dichloromethyl free radicals. These free radicals can contribute to lipid peroxidation and cause cytotoxicity.

c. *How the MCLG is derived.* EPA continues to recognize the strength of the science in support of a nonlinear approach for estimating the carcinogenicity of chloroform. This science was affirmed by the Chloroform Risk Assessment Review Subcommittee of the EPA SAB Executive Committee which met on October 27–28, 1999 (USEPA 2000f). The SAB Subcommittee agreed that the nonlinear approach is most appropriate for the risk assessment of chloroform.

Nonzero MCLGs are scientifically and statutorily supported. The statute requires that the MCLG be set where no known or anticipated adverse effects occur, allowing for an adequate margin of safety (56 FR 3533; USEPA 1991b). Historically, EPA established MCLGs of zero for known or probable human carcinogens based on the principle that any exposure to carcinogens might represent some finite level of risk. If there is substantial scientific evidence, however, that indicates there is a ''safe threshold'', then a nonzero MCLG can be established with an adequate margin of safety (56 FR 3533; USEPA 1991a)).

EPA would ideally like to use the delivered dose (i.e., the amount of key chloroform metabolites that actually reach the liver and cause cell toxicity) for calculating an RfD to support the MCLG. However, the required toxicokinetic data are not currently available. Thus, the RfD is calculated using the applied dose (i.e., the amount of chloroform ingested). The RfD is based on both the benchmark dose and the traditional no observed adverse effect level/lowest observed adverse effect level (NOAEL/LOAEL) approaches for hepatotoxicity in the most sensitive species, the dog. The MCLG is based on the RfD and calculated as follows:

$$\text{MCLG} = \frac{\text{RfD} \times \text{body weight} \times \text{RSC}}{\text{daily water consumption}}$$

i. *Reference dose.* The RfD for chloroform was estimated based on noncancer effects using both the benchmark dose and the traditional NOAEL/LOAEL approaches. For benchmark analysis, five relevant data sets including target organ toxicity, labeling index, histopathology in rodents, and liver toxicity in dogs (Heywood 1979) were evaluated. The effects seen in dogs are considered to be early signs of liver toxicity, preceding cytotoxicity, cytolethality and regenerative hyperplasia. Thus, the Heywood (1979) study, provides the most sensitive end point in the most sensitive species and is the most appropriate basis for the RfD.

The 95% confidence lower bound on the dose associated with a 10% extra risk (LED10) is based on the prevalence of animals demonstrating liver toxicity. After an exposure adjustment to the LED10 (1.2 mg/kg/day), an RfD of 0.01 mg/kg/day was calculated using an overall uncertainty factor of 100 (10 for interspecies extrapolation and 10 for protection of sensitive individuals) (USEPA 2001b).

Coincidentally, the benchmark dose and the traditional NOAEL/LOAEL approaches yield the same RfD number (USEPA 2001b). The NOAEL/LOAEL approach is also based on the Heywood study (1979) which had a LOAEL of 15 mg/kg/day for evidence of liver toxicity. After an exposure adjustment to the LOAEL (yielding 12.9 mg/kg/day), an RfD of 0.01 mg/kg/day was calculated using an overall uncertainty factor of 1000 (10 for interspecies extrapolation, 10 for protection of sensitive individuals, and 10 for using a LOAEL instead of a NOAEL) (USEPA 2001b).

ii. *Relative source contribution.* Another factor in determining the MCLG is the relative source contribution (RSC). The RSC is used when the MCLG is set at a level above zero. Its purpose is to ensure that the contribution to exposure from drinking tap water does not cause the lifetime daily exposure of persons to a contaminant to exceed RfD. The RSC is thus a factor used to make sure that the MCLG is protective even if persons are exposed to the contaminant by other routes (inhalation, dermal absorption) or other sources (*e.g.*, food). If sufficient quantitative data are not available on exposure by other routes and sources, EPA has historically assumed that the RSC from drinking water is 20 percent of the total exposure, a value considered protective. If data indicate that contributions from other routes and sources are not significant, EPA has historically assumed a less conservative RSC of 80 percent (54 FR 22,062, 22,069 (May 22, 1989)(USEPA 1989a), 56 FR at 3535 (Jan 30, 1990)(USEPA 1991a), 59 FR 38,668, 38,678 (July 29, 1994)(USEPA 1994b)).

Today, EPA is proposing an assumption of a 20 percent RSC. This is in consideration of data which indicate that exposure to chloroform by other routes and sources of exposure may potentially contribute a substantial percentage of the overall exposure to chloroform.

In the 1998 Stage 1 DBPR NODA, EPA considered an MCLG of 0.3 mg/L that was calculated using an RSC of 80 percent, based on the assumption that most exposure to chloroform is likely to come from ingestion of drinking water. In the final Stage 1 DBPR, EPA reconsidered this assumption in response to comments and in the light of data which indicate that exposure to chloroform by inhalation and dermal exposure may potentially contribute a substantial percentage of the overall exposure to chloroform depending on the activity patterns of individuals (USEPA 1998e) *e.g.,* during showering, bathing, swimming, boiling water, clothes washing, and dishwashing. There is also potential exposure to chloroform by the dietary route. There are uncertainties regarding other possible highly exposed sub-populations, *e.g.*, swimmers, those who use humidifiers, hot-tubs, and outdoor misters, persons living near industrial sources, people working in laundromats, and persons working with pesticides employing chloroform as a solvent (USEPA 1998b).

A 1998 International Life Sciences Institute (ILSI) report evaluated the uptake of drinking water contaminants through the skin and by inhalation. The report noted that ''(i)n the case of chloroform, its high volatility leads to its rapid movement from liquid to air. Large water-use sources, such as showers, become dominant sources with respect to exposure'' and ''(t)he inhalation route is demonstrated to be the primary route for higher-volatility compounds (*e.g.,* chloroform)'' (ILSI 1998). Weisel and Jo (1996) found that ''approximately equivalent amounts of chloroform from water can enter the body by three different exposure routes, inhalation, dermal absorption, and ingestion, for typical daily activities of drinking and bathing.''

Chloroform has been found in beverages, especially soft drinks, and food, particularly dairy products (Wallace, 1997). Wallace states that ''ingestion (drinking tap water and soft drinks and eating certain dairy foods), inhalation (breathing peak amounts of chloroform emitted during showers or baths, and lower levels in indoor air from other indoor sources), and dermal absorption (during showers, baths, and swimming)'' each ''appear to be potentially substantial contributors to total exposure''.

EPA estimates that for the median individual, ingestion of total tap water (assuming certain activity patterns, habits, and home characteristics) can contribute roughly 28 percent of the total dose of chloroform (USEPA 2001a). With assumptions as described, tap water ingestion is a portion of exposure through fluid intake which contributes about 34 percent of the total dose, inhalation accounts for about 31 percent of the total dose, ingestion of foods contributes another 27 percent of the overall dose, and dermal absorption (primarily during showering) adds slightly less than 8 percent of the total dose. These exposure percentages are based on average daily doses (mean chloroform intake for adults) for each source and route of exposure under specific conditions. They do not take into account the considerable variability in several factors across the population. For instance, intake of drinking water or particular foods and length of shower varies from day-to-day, as do home air turnover rates and ventilation. Different areas in the United States vary with respect to these factors and chloroform concentrations in food. Thus, although the 28 percent for the median individual is based on reasonable assumptions, uncertainty remains.

Given the uncertainties of estimation, EPA believes available analyses point to the RSC of 20 percent as the appropriate default (*i.e.,* 20 percent of exposure to chloroform comes from drinking tap water alone). EPA also believes that this default is protective of public health and is a more reasonable choice than choosing any particular estimate because of the assumptions and uncertainties involved with each estimation. Hence, EPA is proposing the MCLG based on the RSC default of 20 percent which supports the adequacy of the margin of safety associated with the MCLG.

iii. *Water ingestion and body weight assumptions.* In MCLG calculations, EPA assumes the 90th percentile water ingestion of 2 liters (roughly equivalent to a half gallon) per day (USEPA 2000a). The use of a conservative consumption estimate is consistent with the objective of setting an MCLG that is protective. EPA also uses a default adult body weight of 70 kg (equal to 154 pounds) for the RfD since dose is calculated from lifetime studies of animals and compared to lifetime exposure for humans.

iv. *MCLG calculation.* The MCLG is calculated to be 0.07 mg/L using the following assumptions: an adult tap water consumption of 2 L per day for a 70 kg adult, and a relative source contribution of 20%:

$$\text{MCLG for Chloroform} = \frac{0.01\ \text{mg/kg/d} \times 70\ \text{kg} \times 0.2}{2\text{L/day}} = 0.07\ \text{mg/L (rounded)}$$

EPA concludes that an MCLG of 0.07 mg/L based on protection against liver toxicity will be protective against carcinogenicity given that the mode of action for chloroform involves cytotoxicity as a key event preceding tumor development. Therefore, the recommended MCLG for chloroform is 0.07 mg/L.

v. *Other considerations.* The evidence supports similarity of potential response in children and adults. The basic biology of toxicity caused by cell damage due to oxidative damage is expected to be the same. There is nothing about the incidence and etiology of liver and kidney cancer in children to indicate that they would be inherently more sensitive to this mode of action. Most importantly in this case, children appear to be no different quantitatively in ability to carry out the oxidative metabolism step for the induction of toxicity and cancer and may, as fetuses, be less susceptible (USEPA 1999c).

Some commenters on the March 1998 NODA were concerned that EPA did not take drinking water epidemiology studies into account in its evaluation of chloroform risk. EPA believes that while the epidemiologic evidence suggests that chlorinated drinking water may be associated with certain cancers and reproductive, developmental effects pertinent to the risk of disinfectant byproduct mixtures, it does not provide insight into the risk from chloroform specifically. The SAB noted that ''(t)he goal of the draft risk assessment (the isolation of the effect of chloroform in drinking water) makes the extensive epidemiologic evidence on drinking water disinfection byproducts largely irrelevant'' to the specific question of chloroform health risks because, in the available studies, chloroform cannot be isolated from other disinfection byproducts that may be in the drinking water (USEPA 2000f). The SAB noted that ''the epidemiologic evidence is quite pertinent to the broader question of most direct regulatory concern, namely disinfection byproducts in the aggregate''.

d. *Feasibility of other options.* During the development of the MCLG for chloroform, EPA considered a number of options for both the chloroform MCLG and the TTHM MCL. Today, EPA is proposing the preferred option of a 0.07 mg/L MCLG for chloroform. EPA primarily considered two other options which are discussed in more detail later: a 0.07 mg/L MCLG for chloroform in conjunction with developing MCLs for each of the individual TTHMs (*i.e.,* 4 MCLs and 4 MCLGs for the THMs); and developing a single combined MCLG for TTHM rather than developing a separate MCLG for each of the THMs.

EPA considered developing separate MCLGs and MCLs for each THM. Under this strategy, EPA would determine an MCL as close to the individual MCLGs as is technically feasible, taking cost into consideration, for each THM. EPA would propose an MCLG of 0.07 mg/L for chloroform and maintain the Stage 1 DBPR MCLGs for BDCM, DBCM, and bromoform (USEPA 1998c). EPA analyzed the impact such an MCL strategy would have and ultimately rejected this option. This approach represents a fundamental shift from the TTHM strategy agreed to by stakeholders and EPA as part of the M–DBP negotiation process and reflected in the 1998 Stage 1 DBPR. In addition, one important component of the existing single MCL is that TTHMs are an indicator for other DBPs. Developing a separate MCL for each THM would move away from this indicator approach. Because precursor and DBP occurrence measurements are highly variable, both temporally and geographically, determining technical feasibility for best available technology (BAT) would be difficult. Compliance with individual THM standards would be very different from compliance based on a sum of the four THMs and it is not clear what treatment technology shifts would be needed. This problem would be particularly exacerbated in areas with high bromide, such as California. EPA also projected that States would have a difficult time overseeing (*e.g.*, variances, exemptions, *etc.*) the more complicated rule that would result from this option.

EPA considered establishing a single combined MCLG for TTHM. There is precedent for using a toxicity equivalency quotient (analogous to a combined MCLG) for dioxin and coplanar PCBs (USEPA 2000o, Draft Dioxin Reassessment). From a scientific standpoint, a combined MCLG approach requires that the chemicals have a similar mode of action and health endpoint. Chemicals within each of the dioxin and coplanar PCB classes have the same mode of action and endpoint (target tissue). Within the PCB class, noncoplanar PCBs have a different mode of action than the coplanar PCBs. Noncoplanar PCBs are, therefore, not included in the toxicity equivalency quotient for coplanar PCBs. In the case of the disinfection byproducts, EPA believes that the THMs have different modes of action and health endpoints. One of the THMs is a liver carcinogen (chloroform) with a mode of action dependent on cytolethality; two are DNA-reactive carcinogens (bromodichloromethane—large intestine and kidney tumors, and bromoform—large intestine tumors); and one is a nonlinear non-carcinogen (dibromochloromethane) which is a liver toxicant. EPA therefore, chose not to develop a combined MCLG for TTHM. Consequently, after considering this alternative option in some detail, EPA is today proposing an MCLG of 0.07 mg/L for chloroform.

3. Request for Comment

Based on the information presented previously, EPA is proposing an MCLG for chloroform of 0.07 mg/L. EPA requests comments on the MCLG and on EPA's cancer assessment for chloroform. EPA also requests comments on the RfD, the default RSC of 20 percent, and the tap water consumption and body weight assumptions used in the MCLG calculation. EPA solicits additional data on chloroform exposure via other sources and routes. EPA requests comment on the other options for developing the chloroform MCLG that the Agency considered.

B. MCLGs for THMs and HAAs

1. What Is EPA Proposing Today?

Today EPA is proposing new MCLGs of 0.02 mg/L for TCAA and 0.03 mg/L for MCAA based on new toxicological data. As a part of the Stage 1 DBPR, EPA finalized an MCLG of 0.3 mg/L for TCAA. The Stage 1 DBPR did not include an MCLG for MCAA (although it was included as one of the five haloacetic acids in the HAA5 MCL). With the exception of chloroform, discussed above, and these two HAAs, EPA is not revising any of the other MCLGs that were finalized in the Stage 1 DBPR. No significant new studies that would change EPA's MCLG estimates for BDCM, DBCM, bromoform, or DCAA have been published since the Stage 1 DBPR. See section III for a summary of new health effects data.

2. How Was This Proposal Developed?

EPA reviewed the available literature on BDCM, DBCM, bromoform, DCAA and determined that there was no new

information that would cause EPA to revise its MCLG estimates. New toxicology studies on reproductive and developmental effects and cancer are summarized in sections III.B. and III.D. of today's proposal.

EPA is proposing new MCLGs for TCAA and MCAA. The health effects information and studies described in the following two sections that support the proposed MCLGs are summarized from the Addendum to the Criteria Document for Monochloroacetic Acid and Trichloroacetic Acid (USEPA 2003b). The occurrence of MCAA and TCAA are discussed in the *Stage 2 Occurrence Assessment for Disinfectants and Disinfection Byproducts* (USEPA 2003o). a. Trichloroacetic acid. In the final Stage 1 DBPR, EPA based its health effects assessment of TCAA on developmental toxicity and limited evidence of carcinogenicity (USEPA 1998c). Since then, the Agency has decided that the RfD based on a developmental LOAEL yields a less conservative RfD than that based on liver toxicity derived from the study by DeAngelo *et al.* (1997). Thus, the Agency has reassessed the health effects of TCAA based on liver toxicity and revised the RfD and MCLG.

TCAA induces systemic, noncancer effects in animals and humans that can be grouped into three categories: metabolic alterations, liver toxicity; and developmental toxicity. The primary site of TCAA toxicity is the liver (USEPA1994a; Dees and Travis, 1994; Acharya *et al.* 1995; Acharya *et al.* 1997; DeAngelo *et al.*1997).

The liver has consistently been identified as a target organ for TCAA toxicity in short-term (Goldsworthy and Popp, 1987; DeAngelo *et al.* 1989; Sanchez and Bull, 1990) and longer-term (Bull *et al.* 1990; Mather *et al.* 1990; Bhat *et al.* 1991) studies. Peroxisome proliferation has been a primary endpoint evaluated, with mice reported to be more sensitive to this effect than rats. More recent studies have confirmed these earlier findings. TCAA-induced peroxisome proliferation was observed in B6C3F1 mice exposed for 10 weeks to doses as low as 25 mg/kg/day (Parrish *et al.* 1996), while in rats exposed to TCAA for up to 104 weeks (DeAngelo *et al.* 1997), peroxisome proliferation was observed at 364 mg/kg/day, but not at 32.5 mg/kg/day. Increased liver weight and significant increases in hepatocyte proliferation have been observed in short-term studies in mice at doses as low as 100 mg/kg/day (Dees and Travis, 1994), but no increase in hepatocyte proliferation was noted in rats given TCAA at similar doses (DeAngelo *et al.* 1997). More clearly adverse liver toxicity endpoints, including increased serum levels of liver enzymes (indicating leakage from cells) or histopathological evidence of necrosis, have been reported in rats, but generally only at high doses. For example, in a rat chronic drinking water study, increased hepatocyte necrosis was observed at a dose of 364 mg/kg/day (DeAngelo *et al.* 1997).

In the DeAngelo *et al.*(1997) study, groups of 50 male F344 rats were administered TCAA in drinking water, at 0, 50, 500, or 5000 mg/L, resulting in time-weighted mean daily doses of 0, 3.6, 32.5, or 364 mg/kg for 104 weeks. There were no significant differences in water consumption or survival between the control and treatment groups. Exposure to the high dose of TCAA resulted in a significant decrease in body weight of 11% at the end of the study. The absolute but not relative liver weight was decreased at the high dose. Complete necropsy and histopathology examination showed mild hepatic cytoplasmic vacuolization in the two low-dose groups, but not in the high-dose group. The severity of hepatic necrosis was increased mildly in the high-dose animals. Analyses of serum aspartate aminotransferase (AST) and alanine aminotransferase (ALT) activities at the end of exposure showed a significant decrease in AST activity in the mid-dose group and a significant increase in ALT level in the high-dose group. Since increased serum ALT or AST levels reflect hepatocellular necrosis, the increased ALT at the high dose is considered an adverse effect, while a non-dose related decrease of AST is not. Peroxisome proliferation was increased significantly in the high-dose animals. There was no evidence of any exposure-related increase in hepatocyte proliferation. Based on the significant decrease in body weight (≥10%), minimal histopathology changes, and increased serum ALT level, the high dose of 364 mg/kg/day is considered the LOAEL and the mid dose of 32.5 mg/kg/day is considered the NOAEL.

There are no reproductive toxicity studies of TCAA. The results of an *in vitro* fertilization assay indicated that TCAA might decrease fertilization (Cosby and Dukelow, 1992). The available data suggest that TCAA is a developmental toxicant. TCAA increased resorptions, decreased implantations, and increased fetal cardiovascular malformations when administered to pregnant rats at 291 mg/kg/day (Johnson *et al.* 1998) on gestation days 1–22. In another study, decreased fetal weight and length, and increased cardiovascular malformations were observed when pregnant rats were administered 330 mg/kg/day TCAA by gavage during gestation days 6 to 15 (Smith *et al.* 1989). Neither of these studies identified a NOAEL. The results of *in vitro* developmental toxicity assays, including mouse and rat whole-embryo culture (Saillenfait *et al.* 1995; Hunter *et al.* 1996) and frog embryo teratogenesis assay—*Xenopus* (FETAX) (Fort *et al.* 1993) yielded positive results. The *Hydra* test system (Fu *et al.* 1990) produced negative results.

TCAA has been reported to induce liver tumors in mice but not in rats (USEPA 1994a). This observation has also been made in more recent drinking water studies. Pereira (1996) observed an increased incidence of hepatocellular adenomas and carcinomas in female B6C3F1 mice at doses of 262 mg/kg/day and higher after 82 weeks. In contrast, no increase in neoplastic liver lesions were found in F344 rats given doses up to 364 mg/kg/day for 104 weeks (DeAngelo *et al.* 1997). In addition, a variety of recent mechanistic studies have observed that TCAA either induced or promoted liver tumors in mice (Ferreira-Gonzalez *et al.* 1995; Pereira and Phelps, 1996; Tao *et al.* 1996; Latendresse and Pereira, 1997; Stauber and Bull, 1997; Tao *et al.* 1998).

Recent mutagenicity data have provided mixed results (Giller *et al.* 1997; DeMarini *et al.* 1994; Harrington-Brock *et al.* 1998). TCAA did not induce oxidative DNA damage in mice following dosing for either 3 or 10 weeks (Parrish *et al.* 1996). Studies on DNA strand breaks and chromosome damage produced mixed results (Nelson and Bull, 1988; Chang *et al.* 1991; Mackay *et al.* 1995; Harrington-Brock *et al.* 1998).

According to the 1999 Draft Guidelines for Carcinogen Risk Assessment (USEPA 1999a), a compound is appropriately classified as ''Suggestive Evidence of Carcinogenicity, but Not Sufficient to Assess Human Carcinogenic Potential'' when ''the evidence from human or animal data is suggestive of carcinogenicity, which raises a concern for carcinogenic effects but is judged not sufficient for a conclusion as to human carcinogenic potential''. Based on uncertainty surrounding the relevance of the liver tumor data in B6C3F1 mice, TCAA can best be described as ''Suggestive Evidence of Carcinogenicity, but Not Sufficient to Assess Human Carcinogenic Potential'' under the 1999 Draft Guidelines for Carcinogen Risk Assessment. Thus a quantitative estimate of cancer potency is not supported.

The RfD for TCAA of 0.03 mg/kg/day is based on the NOAEL of 32.5 mg/kg/day for liver histopathological changes identified by DeAngelo *et al.* (1997). The RfD includes an uncertainty factor of 1000 (composite uncertainty factor consisting of three factors of 10 chosen to account for extrapolation from a NOAEL in animals, inter-individual variability in humans, and insufficiencies in the database, including the lack of full histopathological data in a second species, the lack of a developmental toxicity study in second species, and the lack of a multi-generation reproductive study).

The MCLG is calculated to be 0.02 mg/L using the following assumptions: an adult tap water consumption of 2 L of tap water per day for a 70 kg adult, a relative source contribution (RSC) of 20%, and an additional safety factor to account for possible carcinogenicity. EPA has traditionally applied an additional safety factor of 1–10 beyond the uncertainty factors included in the RfD to the MCLG to account for possible carcinogenicity in cases where there is limited evidence of carcinogenicity from drinking water, considering weight of evidence, pharmacokinetics, potency and exposure (USEPA 1994b, p.38678). EPA is proposing this additional safety factor of 10 for TCAA for the following reasons: TCAA causes liver tumors in mice but does not do so in rats. In addition, although peroxisome proliferation (a mode of action of limited relevance to humans) may play a role in the development of the mouse tumors, rats also exhibit a peroxisomal proliferative response after exposure to TCA, yet do not develop tumors. Other data suggest that promotion of initiated cells and/or disrupted cell signaling may be involved in the mode of action for the mouse tumors. Together these factors argue against quantification of the mouse liver tumors using linear extrapolation from the dose-response curve, but are not sufficient to rule out concern for a tumorigenic response. Accordingly, EPA has employed the ten-fold additional safety factor in determination of the Lifetime Health Advisory for TCAA. EPA requests comment on the use of 10 as the additional safety factor for possible carcinogenicity.

$$\text{MCLG for TCAA} = \frac{(0.03\ \text{mg/kg/day})(70\ \text{kg})(20\%)}{(2\ \text{L/day})(10)} = 0.02\ \text{mg/L (rounded)}$$

An RSC factor of 20% is used to account for exposure to TCAA in sources other than tap water, such as ambient air and food. Although TCAA is nonvolatile and inhalation while showering is not expected to be a major contribution to total dose, rain waters contain 0.01–1.0 µg/L of TCAA (Reimann *et al.* 1996) and it can be assumed to be detected in the atmosphere. Limited data on concentrations of TCAA in air (NATICH 1993) indicate inhalation of TCAA in ambient air may contribute to overall exposure. Concentrations of TCAA that have been measured in a limited selection of foods including vegetables, fruits, grain and bread (Reimann *et al.* 1996) are comparable to that in water. About 3 to 33% of TCAA in cooking water have been reported to be taken up by the food during cooking in a recent research summary (Raymer *et al.* 2001). In addition, there are uses of chlorine in food production and processing, and TCAA may occur in food as a byproduct of chlorination (USEPA 1994a). Therefore, ingestion of TCAA in food may also contribute to the overall exposure. A recent dermal absorption study of DCAA and TCAA from chlorinated water suggested that the dermal contribution to the total doses of DCAA and TCAA from routine household uses of drinking water is less than 1% (Kim and Weisel, 1998).

b. *Monochloroacetic acid.* Subchronic and chronic oral dosing studies suggest that the primary targets for MCAA-induced toxicity include the heart and nasal epithelium. In a 13-week oral gavage study, decreased heart weight was observed at 30 mg/kg/day and cardiac lesions progressed in severity with increasing dose. Liver and kidney toxicity were only observed at higher doses (NTP 1992). In a two-year study, decreased survival and nasal and forestomach hyperplasia were observed in mice at 50 mg/kg/day (NTP 1992). A more recent study confirms the heart and nasal cavities as target sites for MCAA. DeAngelo *et al.* (1997) noted decreased body weight at 26.1 mg/kg/day and myocardial degeneration and inflammation of the nasal cavities in rats exposed to doses of 59.9 mg/kg/day for up to 104 weeks.

No studies were located on the reproductive toxicity of MCAA and the potential developmental toxicity of MCAA has not been adequately tested. Two developmental toxicity studies were identified. Johnson *et al.* (1998) reported markedly decreased maternal weight gain, but no developmental effects, in rats exposed to 193 mg/kg/day MCAA through gestation days 1–22, only fetal heart was examined. In contrast, in a published abstract, Smith *et al.* (1990) reported an increase in cardiovascular malformations when pregnant rats were exposed to 140 mg/kg/day; this was also the LOAEL for maternal toxicity, based on marked decreases in weight gain. MCAA was noted as a potential developmental toxicant in *in vitro* screening assays using *Hydra* (Fu *et al.* 1990; Ji *et al.* 1998).

MCAA has yielded mixed results in genotoxicity assays (USEPA 1994a; Giller *et al.* 1997), but has not induced a carcinogenic response in chronic rodent bioassays (NTP 1992; DeAngelo *et al.* 1997). In chronic oral gavage studies, a LOAEL of 15 mg/kg/day (the lowest dose tested) for decreased survival was identified in rats. In mice the NOAEL was 50 mg/kg/day and the LOAEL was 100 mg/kg/day for nasal and forestomach epithelium hyperplasia (NTP 1992). In a more recent chronic study, DeAngelo *et al.* (1997) reported a LOAEL of 3.5 mg/kg/day in rats given MCAA in their drinking water, based on increased absolute and relative spleen weight. Although spleen weight was decreased at the mid and high doses, this might reflect the masking effect of overt toxicity. As evidence for this, decreased body weight (>10%), liver, kidney, and testes weight changes were reported beginning at the next higher dose of 26.1 mg/kg/day. No increased spleen weight was reported in the NTP (1992) bioassays, but the lowest dose in rats caused severe toxicity, and the lowest dose in mice was more than an order of magnitude higher than the LOAEL in the DeAngelo *et al.* (1997) study.

According to the 1999 Draft Guidelines for Carcinogen Risk Assessment (USEPA 1999a), a compound is appropriately classified as ''Not Likely to be Carcinogenic to Humans'' when it has ''been evaluated in at least two well-conducted studies in two appropriate animal species without demonstrating carcinogenic effects.'' MCAA can best be described as ''Not Likely to be Carcinogenic to Humans'' under the 1999 Draft Guidelines for Carcinogen Risk Assessment.

The RfD for MCAA of 0.004 mg/kg/day is based on a LOAEL of 3.5 mg/kg/day for increased spleen weight in rats (DeAngelo *et al.* 1997) and application of an uncertainty factor of 1000 (composite uncertainty factor consisting of two factors of 10 chosen to account for extrapolation from an animal study, and inter-individual variability in humans; as well as two factors of 3 for extrapolation from a minimal effect LOAEL, and insufficiencies in the database, including the lack of adequate developmental toxicity studies in two species, and the lack of a multi-generation reproductive study). Two developmental toxicity studies have been reported (Johnson *et al.* 1998; Smith *et al.* 1990), but the NOAELs yielded less conservative RfDs. The study by DeAngelo et al (1997) is the most appropriate for derivation of the RfD because it identifies the lowest LOAEL, and dosing was in drinking water, which is more appropriate for human health risk assessment.

The MCLG is calculated to be 0.03 mg/L using the following assumptions: an adult tap water consumption of 2 L of tap water per day for a 70 kg adult, and a relative source contribution of 20 %.

$$\text{MCLG for MCAA} = \frac{(0.004\ \text{mg/kg/day})(70\ \text{kg})(20\%)}{(2\ \text{L/day})} = 0.03\ \text{mg/L (rounded)}$$

An RSC factor of 20% is used to account for exposure to MCAA in other sources in addition to tap water. Although MCAA is nonvolatile and inhalation while showering is not expected to be a major contribution to total dose, rain waters contain 0.05–9 µg/L of MCAA (Reimann *et al.* 1996) and it can be assumed to be detected in the atmosphere. Presence of MCAA has also been reported in rain waters; thus, inhalation of MCAA in ambient air may contribute to overall exposure. Concentrations of MCAA that have been measured in a limited selection of foods including vegetables, fruits, grain and bread (Reimann *et al.* 1996) are comparable to that in water. About 2.5 to 62% of MCAA in cooking water has been reported to be taken up by food during cooking in a recent research summary (Raymer *et al.* 2001). In addition, there are uses of chlorine in food production and processing, and MCAA may occur in food as a byproduct of chlorination (USEPA 1994a). Therefore, ingestion of MCAA in food may also contribute to the overall exposure. Assuming dermal absorption rate of MCAA is similar to DCAA, dermal contribution to the total doses of MCAA from routine household uses of drinking water should be minor (*see* V.B.2.a.).

3. Request for Comment

EPA requests comment on the new MCLGs for TCAA (0.02 mg/L) and MCAA (0.03 mg/L) and all the factors incorporated in the derivation of the MCLGs, including the RfDs and RSCs. EPA also solicits health effect information on DBAA and monobromoacetic acid (MBAA), for which MCLGs have not yet been established.

C. Consecutive Systems

Today's proposal includes provisions for consecutive systems, which are public water systems that purchase or otherwise receive finished water from another water system (a wholesale system). As described in this section, consecutive systems face particular challenges in providing water that meets regulatory standards for DBPs and other contaminants whose concentration can increase in the distribution system. Moreover, current regulation of DBP levels in consecutive systems varies widely among States. In consideration of these factors, EPA is proposing monitoring, compliance schedule, and other requirements specifically for consecutive systems. These requirements are intended to facilitate compliance by consecutive systems with MCLs for TTHM and HAA5 under the Stage 2 DBPR. Further, this approach will help to ensure that consumers in consecutive systems receive equivalent public health protection. This section begins with a summary of how EPA proposes to regulate consecutive systems under the Stage 2 DBPR. The intent of this section is to provide an overview of all consecutive system requirements in today's proposal. Detailed explanations of these requirements are provided in later sections of this preamble. The overview of consecutive system requirements is followed by an explanation of why EPA has taken this approach to consecutive systems in today's proposal, including recommendations from the Stage 2 M–DBP Federal Advisory Committee.

1. What Is EPA Proposing Today?

As public water systems, consecutive systems must provide water that meets the MCLs for TTHM and HAA5 under the proposed Stage 2 DBPR, and must carry out associated monitoring, reporting, recordkeeping, public notification, and other requirements. The following discussion summarizes how the Stage 2 DBPR requirements apply to consecutive systems, beginning with a series of definitions. Later sections of this preamble provide further details as noted.

a. *Definitions.* To address consecutive systems in the Stage 2 DBPR, the Agency must define them, along with a number of related terms.

EPA is proposing to define a *consecutive system* in the Stage 2 DBPR as a public water system that buys or otherwise receives some or all of its finished water from one or more wholesale systems for at least 60 days per year. In addition to buying finished water, some consecutive systems also operate a treatment plant (meaning a plant that treats source water to produce finished water). As described in section V.I., monitoring requirements under the Stage 2 DBPR proposal differ depending on whether a consecutive system buys all of its finished water year-round or, alternatively, produces some of its finished water through treating source water.

EPA proposes to define finished water as water that has been introduced into the distribution system of a public water system and is intended for distribution without further treatment, except that necessary to maintain water quality (such as booster disinfection). With this definition, water entering the distribution system is finished water even if a system subsequently applies additional treatment like booster disinfection to maintain a disinfectant residual throughout the distribution system.

In today's proposal, EPA defines a *wholesale system* as a public water system that treats source water and then sells or otherwise delivers finished water to another public water system for at least 60 days per year. Delivery may be through a direct connection or through the distribution system of another consecutive system. Under this definition, a consecutive system that passes water from a wholesaler to another consecutive system, and that does not also treat source water, is not

a wholesale system. Rather, the system that actually produces the finished water is responsible for wholesale system requirements under the proposed Stage 2 DBPR.

A *consecutive system entry point* is defined as a location at which finished water is delivered at least 60 days per year from a wholesale system to a *consecutive system*. Section V.I. presents the relationship between consecutive system entry points and proposed Stage 2 DBPR monitoring requirements. The *combined distribution system* is the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water from those wholesale system(s).

b. *Monitoring.* For consecutive systems that both purchase finished water and treat source water to produce finished water for at least part of the year, EPA is proposing monitoring requirements under a treatment plant-based approach, described in section V.I. This is the approach proposed for non-consecutive systems under the Stage 2 DBPR as well. Under this approach, the sampling requirements for consecutive systems will be influenced by both the number of treatment plants operated by the system and the number of consecutive system entry points, as well as population served and source water type.

For consecutive systems that purchase all of their finished water year-round, EPA is proposing monitoring requirements under a population-based approach, also described in section V.I. Under the population-based approach, the population of the consecutive system will determine the sampling requirements. EPA believes this approach is more appropriate than plant-based monitoring because these consecutive systems do not have treatment plants. As noted in section V.I., EPA is requesting comment on extending population-based monitoring to all systems, including non-consecutive systems. EPA has prepared draft guidance for implementing the IDSE monitoring requirements (described in section V.H.) using the population-based approach (USEPA 2003j).

EPA is also proposing that States have the opportunity to specify alternative monitoring requirements for multiple consecutive systems in a combined distribution system. This option allows States to consider complex consecutive system configurations for which alternative monitoring strategies might be more appropriate. As a minimum under such an approach, each consecutive system must collect at least one sample among the total number of samples required for the combined distribution system and will base compliance on samples collected within its distribution system. The consecutive system is responsible for ensuring that required monitoring is completed and the system is in compliance. The consecutive system may conduct the monitoring itself or arrange for the monitoring to be done by the wholesale system or another outside party. Whatever approach it chooses, the consecutive system must document its monitoring strategy as part of its DBP monitoring plan.

Finally, EPA is proposing that consecutive systems not conducting disinfectant residual monitoring comply with the monitoring requirements and MRDLs for chlorine and chloramines.

c. Compliance schedules. EPA is proposing that consecutive systems of any size comply with the requirements of the Stage 2 DBPR on the same schedule as required for the largest system in the combined distribution system. This includes the schedule for carrying out the IDSE, described in section V.H, and for meeting the Stage 2B MCLs for TTHM and HAA5, described in section V.D. As discussed later in this section, EPA is proposing simultaneous compliance schedules under the Stage 2 DBPR for all systems (both wholesalers and consecutive systems) in a combined distribution system because this may allow for more cost-effective compliance with TTHM and HAA5 MCLs. This is also consistent with the recommendations of the Stage 2 M–DBP Advisory Committee. See section V.J for details of compliance schedule requirements.

d. *Treatment.* While consecutive systems often do not need to treat finished water received from a wholesale system, they may need to implement procedures to control the formation of DBPs in the distribution system. For consecutive systems, EPA is proposing that the BAT for meeting TTHM and HAA5 MCLs is chloramination with management of hydraulic flow and storage to minimize residence time in the distribution system. This BAT stems from the recognition that treatment to remove already-formed DBPs or minimize further formation is different from treatment to prevent or reduce their formation. See section V.F for additional information on BATs and their role in compliance with MCLs.

e. *Violations.* Under this proposal, monitoring and MCL violations are assigned to the PWS where the violation occurred. Several examples are as follows:

—If a consecutive system has hired its wholesale system under contract to monitor in the consecutive system and the wholesale system fails to monitor, the consecutive system is in violation because it has the legal responsibility for monitoring under State/EPA regulations.

—If monitoring results in a consecutive system indicate an MCL violation, the consecutive systems is in violation because it has the legal responsibility for complying with the MCL under State/EPA regulations. The consecutive system may set up a contract with its wholesale system that details water quality delivery specifications.

—If a wholesale system has a violation and provides that water to a consecutive system, the wholesale system is in violation. Whether the consecutive system is in violation will depend on the situation. The consecutive system will also be in violation unless it conducted monitoring that showed that the violation was not present in the consecutive system.

f. *Public notice and consumer confidence reports.* The responsibilities for public notification and consumer confidence reports rest with the individual system. Under the Public Notice Rule and Consumer Confidence Report Rule, the wholesale system is responsible for notifying the consecutive system of analytical results and violations related to monitoring conducted by the wholesale system. Consecutive systems are required to conduct appropriate public notification after a violation (whether in the wholesale system or the consecutive system). In their consumer confidence report, consecutive systems must include results of the testing conducted by the wholesale system unless the consecutive system conducted equivalent testing that indicated the consecutive system was in compliance, in which case the consecutive system reports its own compliance monitoring results.

g. *Recordkeeping and reporting.* Consecutive systems are required to keep all records required of PWSs regulated under this rule. They are also required to report to the State monitoring results, violations, and other actions, and are required to consult with the State after a significant excursion.

h. *State special primacy conditions.* EPA is aware that due to the complicated wholesale system-consecutive system relationships that

exist nationally, there will be cases where the standard monitoring framework proposed today will be difficult to implement. Therefore, the Agency is proposing to allow States to develop, as a special primacy condition, a program under which the State can modify monitoring requirements for consecutive systems. These modifications must not undermine public health protection and all systems, including consecutive systems, must comply with the TTHM and HAA5 MCLs based on the LRAA. However, such a program would allow the State to establish monitoring requirements that account for complicated distribution system relationships, such as where neighboring systems buy from and sell to each other regularly throughout the year, water passes through multiple consecutive systems before it reaches a user, or a large group of interconnected systems have a complicated combined distribution system. EPA intends to develop a guidance manual to address development of a State program and other consecutive system issues.

2. How Was This Proposal Developed?

The practice of public water systems buying and selling water to each other has been commonplace for many years. Reasons include saving money on pumping, treatment, equipment, and personnel; assuring an adequate supply during peak demand periods; acquiring emergency supplies; selling surplus supplies; delivering a better product to consumers; and meeting Federal and State water quality standards. EPA estimates that there are at least 8500 consecutive systems nationally, based on the definitions being proposed today.

Consecutive systems face particular challenges in providing water that meets regulatory standards for contaminants that can increase in the distribution system. Examples of such contaminants include coliforms, which can grow if favorable conditions exist, and some DBPs, including THMs and HAAs, which can increase when a disinfectant and DBP precursors continue to react in the distribution system.

EPA is proposing requirements specifically for consecutive systems because States have taken widely varying approaches to regulating DBPs in consecutive systems. For example, some States do not regulate DBP levels in consecutive systems that deliver disinfected water but do not add a disinfectant. Other States determine compliance with DBP standards based on the combined distribution system that includes both the wholesaler and consecutive systems. In this case, sites in consecutive systems are treated as monitoring sites within the combined distribution system. Once fully implemented, this proposed rule will ensure similar protection for consumers in consecutive systems.

EPA is proposing that consecutive systems and wholesale systems be on the same compliance schedule because generally the most cost-effective way to achieve compliance with TTHM and HAA5 MCLs is to treat at the source, typically through precursor removal or alternative disinfectants. For a wholesale system to make the best decisions concerning the treatment steps necessary to meet TTHM and HAA5 LRAAs under the Stage 2 DBPR, both in its own distribution system and in the distribution systems of consecutive systems it serves, the wholesale system must know the DBP levels throughout the combined distribution system. Without this information, the wholesale system may design treatment changes that allow the wholesale system to achieve compliance, but leave the consecutive system out of compliance. EPA also recognizes that there may be cases where a consecutive system needs to add treatment even after a wholesale system has optimized its own treatment train.

In consideration of these issues, the Stage 2 M–DBP Advisory Committee recognized two principles related to consecutive systems: (1) Consumers in consecutive systems should be just as well protected as customers of all systems, and (2) monitoring provisions should be tailored to meet the first principle. Accordingly, the Advisory Committee recommended that all wholesale and consecutive systems comply with provisions of the Stage 2 DBPR on the same schedule required of the wholesale or consecutive system serving the largest population in the combined distribution system. In addition, the Advisory Committee recommended that EPA solicit comments on issues related to consecutive systems that the Advisory Committee had not fully explored (USEPA 2000g). EPA agrees with these recommendations and they are reflected in today's proposal.

3. Request for Comment

EPA requests comment on all consecutive system issues related to this rule. Specifically, EPA requests comment on the following:

—Whether the proposed definitions adequately address various wholesale system-consecutive system relationships and issues.

—Whether any additional terms need to be defined and, if so, what the definition should be.

—Whether the criteria for States' use of the special primacy criteria and other State responsibilities are appropriate and adequate.

—Whether it is necessary to require that consecutive system treatment be installed on the same compliance schedule as the wholesale system in cases where the size of the consecutive system might otherwise allow it a longer compliance time frame and the consecutive system treatment does not affect water quality in any other system.

D. MCLs for TTHM and HAA5

1. What Is EPA Proposing Today?

Today, EPA is proposing use of locational running annual averages (LRAAs) to determine compliance with the MCLs for TTHM and HAA5. Consistent with the Stage 2 M-DBP Advisory Committee recommendation, EPA is proposing a phased approach for LRAA implementation to allow systems to identify compliance monitoring locations for Stage 2B while facilitating transition to the new compliance strategy and maintaining simultaneous compliance schedules for the Stage 2 DBPR and the LT2ESWTR.

In Stage 2A, all systems must comply with MCLs of 0.120 mg/L for TTHM and 0.100 mg/L for HAA5 as LRAAs using Stage 1 DBPR compliance monitoring sites. In addition, during this time period, all systems must continue to comply with the Stage 1 DBPR MCLs of 0.080 mg/L TTHM and 0.060 mg/L HAA5 as RAAs.

In Stage 2B, all systems, including consecutive systems, must comply with MCLs of 0.080 mg/L TTHM and 0.060 mg/L HAA5 as LRAAs using sampling sites identified under the Initial Distribution System Evaluation (IDSE) (discussed in section V.H.).

Details of proposed monitoring requirements and compliance schedules are discussed in preamble sections V.I. and V.J., respectively, and may be found in § 141.136 and subpart V of today's rule.

2. How Was This Proposal Developed?

a. *Definition of an LRAA.* The primary objective of the LRAA is to reduce exposure to high DBP levels. For an LRAA, an annual average must be computed at each monitoring site. The RAA compliance basis of the 1979 TTHM rule and the Stage 1 DBPR allows a system-wide annual average under which high DBP concentrations in one or more locations are averaged with, and

dampened by, lower concentrations elsewhere in the distribution system. Figure V–1 illustrates the difference in calculating compliance with the MCLs for TTHM between a Stage 1 DBPR RAA, and the proposed Stage 2 DBPR LRAA.

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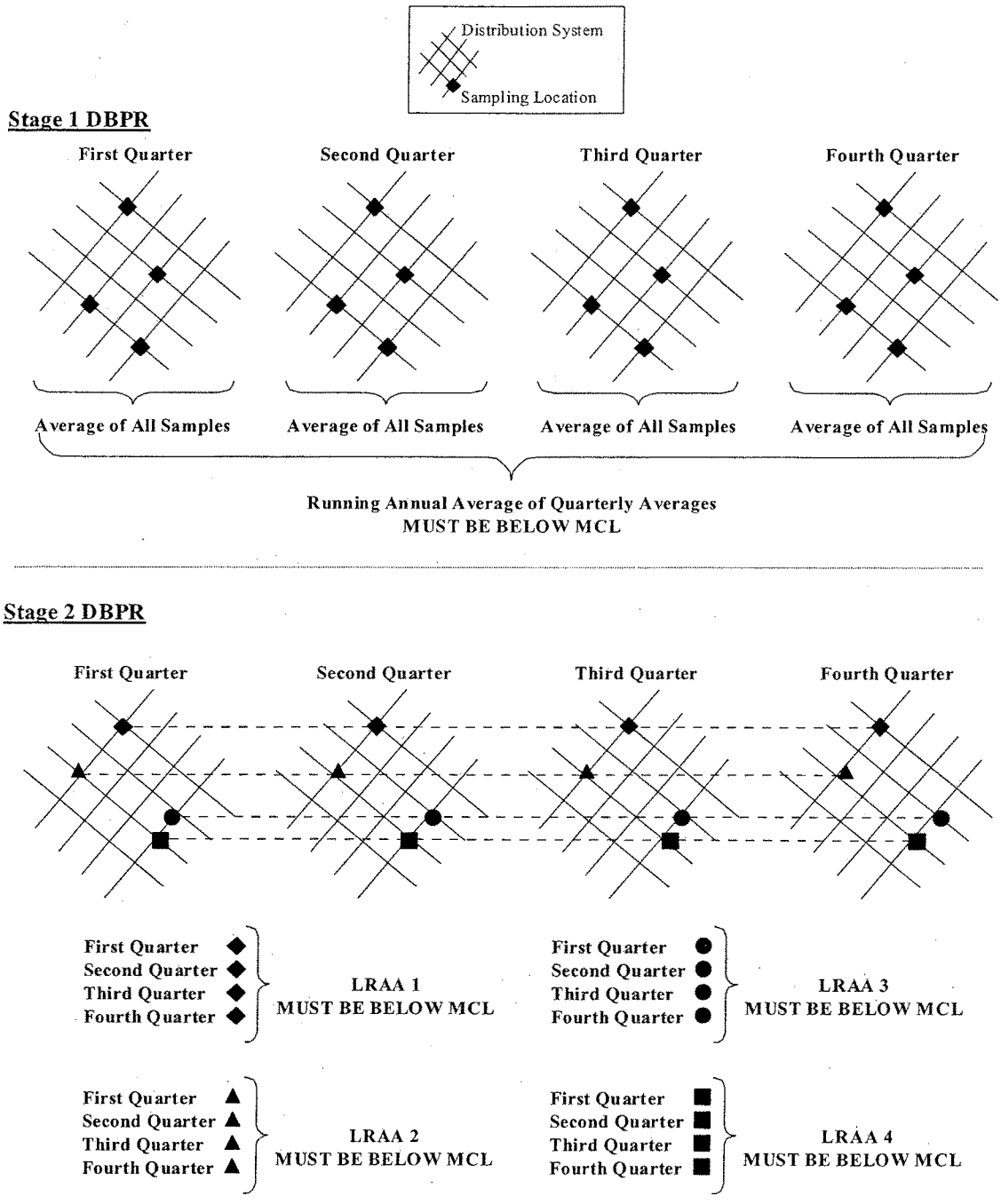
Figure V-1. Comparison of RAA and LRAA compliance calculations[1].



[1]Stage 2 DBPR sampling locations will be selected based on the results of an IDSE study and may occur at locations different from Stage 1 DBPR sampling sites.

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b. *Consideration of regulatory alternatives.* This section will discuss EPA's and the Stage 2 M-DBP Advisory Committee's decision-making process as an array of alternative MCL strategies were considered. EPA believes that the MCL alternative proposed today (MCLs of 0.080 mg/L TTHM, 0.060 mg/L HAA5 as LRAAs) is supported by the best available research, data, and analysis. The science related to cancer and reproductive and developmental health effects that may be associated with DBPs, in conjunction with occurrence data that show that a significant number of high DBP levels occur under current regulatory scenarios, justify a change in regulation. EPA believes that this proposal achieves an appropriate balance between the available science and the uncertainties. EPA believes that regulatory action is necessary and prudent in the interest of further public health protection and that the LRAA alternative in combination with the IDSE is a balanced and reasonable approach. Although it will not remove all DBP peaks (individual samples with values greater than the MCL), this proposed regulation will ensure that DBP exposures across a system's distribution system are further reduced, are more equitable, and may reduce cancer and reproductive and developmental risk.

The Advisory Committee discussions primarily focused on the relative magnitude of exposure reduction versus the expected impact on the water industry and its customers. Initially, this analysis compared expected reductions in DBP levels and predictions of treatment technology changes associated with a wide variety of Stage 2 DBPR MCL alternatives.

After initial discussions, EPA and the Advisory Committee primarily focused on four types of alternative rule scenarios.

Preferred Alternative.—MCLs of 0.080 mg/L TTHM and 0.060 mg/L HAA5 as LRAAs. Bromate MCL of 0.010 mg/L.

Alternative 1.—MCLs of 0.080 mg/L TTHM and 0.060 mg/L HAA5 as LRAAs. Bromate MCL of 0.005 mg/L.

Alternative 2.—MCLs of 0.080 mg/L TTHM and 0.060 mg/L HAA5 as individual sample maximums (*i.e.*, no single sample could exceed the MCL). Bromate MCL of 0.010 mg/L.

Alternative 3.—MCLs of 0.040 mg/L TTHM and 0.030 mg/L HAA5 as RAAs. Bromate MCL of 0.010 mg/L.

EPA and the Advisory Committee, with assistance from the Technical Workgroup, conducted an in-depth analysis of these regulatory alternatives. In the process of evaluating alternatives, EPA and the Advisory Committee reviewed vast quantities of data and many analyses that addressed health effects, DBP occurrence, predicted reductions in DBP levels, predicted technology changes, and capital, annual, and household costs. Details of the compliance, occurrence, and cost forecasts for the four alternative rule scenarios are described in the Stage 2 DBPR Economic Analysis (EA) (USEPA 2003i) and the Stage 2 DBPR Occurrence Document (USEPA 2003o).

In the end, the Advisory Committee recommended the Preferred Alternative in combination with the IDSE which they believed would reduce exposure to high levels of DBPs. Today, EPA is proposing the Preferred Alternative in combination with the IDSE.

The only difference between the Preferred Alternative and Alternative 1 is the bromate MCL. The Advisory Committee's recommendation to maintain the Stage 1 DBPR bromate MCL of 0.010 mg/L is discussed in section V.G. of today's proposal.

Alternatives 2 and 3 are significantly more stringent than the Stage 1 DBPR with respect to the TTHM and HAA5 requirements. Alternative 2 would require that all samples be below the MCL. Because DBP occurrence is variable across the distribution system and over time (as discussed in section IV), systems would have to base their disinfectant and treatment strategies on controlling their highest DBP occurrence levels. Alternative 3 maintains the Stage 1 DBPR RAA compliance calculation, but reduces the Stage 1 DBPR MCLs by 50 percent. Both alternatives 2 and 3 would cause significant changes in treatment for a large number of systems. The estimated costs for Alternatives 2 and 3 are approximately an order of magnitude above the costs for the Preferred Alternative (see section VII.B.).

Consistent with this greater stringency of alternatives 2 and 3, the predicted DBP reductions and the resulting health benefits for them are greater than those predicted for the Preferred Alternative. Although all members of the Advisory Committee believed that the science showing reproductive and developmental health effects that have been associated with DBPs was sufficient to cause concern and warrant regulatory action, the Advisory Committee did not believe that the association was certain enough to justify the substantial change in treatment technologies that would be required to meet these alternatives. Thus, the Advisory Committee rejected Alternatives 2 and 3.

c. *Basis for the LRAA.* This section discusses the data and information EPA used to determine that the LRAA is an appropriate compliance strategy for today's proposed rule. EPA has chosen compliance based on an LRAA due to concerns about levels of DBPs above the MCL in some portions of the distribution system. The LRAA standard will eliminate system-wide averaging. The individuals served in areas of the distribution system with above average DBP occurrence levels masked by averaging under an RAA are not receiving the same level of health protection. Although an LRAA standard still allows averaging at a single location over an annual period, EPA believes that changing the basis of compliance from an RAA to an LRAA will result in decreased exposure to above average DBP levels (*see* section VII.A. for predictions of DBP reductions under the LRAA MCLs). This conclusion is based on three considerations:

(1) There is considerable evidence that under the current RAA MCL compliance monitoring requirements a small but significant proportion of monitoring locations experience high DBP levels. As summarized in section IV of this preamble, 14 and 21% of Information Collection Rule systems currently meeting the Stage 1 DBPR RAA MCLs had TTHM and HAA5 single sample concentrations greater than the Stage 1 MCLs and ranged up to 140 μg/L and 130 μg/L respectively (Figures IV–1 and IV–2), though most of these exceedences were below 100 μg/L.

(2) In some situations, the populations served by certain portions of the distribution system consistently receive water that exceeds the MCL even though the system is in compliance. As discussed in section IV of this preamble, some Information Collection Rule systems meeting the Stage 1 DBPR RAA MCLs had monitoring locations that exceeded 0.080 mg/L TTHM and/or 0.060 mg/L HAA5 as an annual average (*i.e.*, as LRAAs) by up to 25% (Figures IV–3 and IV–4). Five percent of plants that achieved compliance with the Stage 1 TTHM MCL of 0.080 mg/L based on an RAA had a particular sampling location that exceeded 0.080 mg/L as an LRAA (Figure IV–3). Figure IV–4 shows similar results based on Information Collection Rule HAA5 data. Three percent of plants that met the Stage 1 HAA5 MCL of 0.060 mg/L as an RAA had a sampling location that exceeded 0.060 mg/L as an LRAA. Customers served at these locations consistently received water with TTHM and/or HAA5 concentrations higher than the system-wide MCL.

(3) Compliance based on an LRAA will remove the opportunity for systems to average out samples from high and low quality water sources. Some systems are able to comply with an RAA MCL even if they have a plant with a poor quality water source (that thus produces high concentrations of DBPs) because they have another plant that has a better quality water source (and thus lower concentrations of DBPs). Individuals served by the plant with the poor quality source will usually have higher DBP exposure than individuals served by the other plant.

d. *Basis for phasing LRAA compliance.* EPA believes that a phased approach for LRAA implementation will facilitate transition to the new compliance requirements. Stage 2A of this proposed rule does not require systems to conduct any additional monitoring. They will continue to monitor at Stage 1 DBPR locations. Because the LRAA calculation is the same as the RAA calculation if there is only one site, Stage 2A compliance only applies to systems that monitor at more than one site and will only affect medium and large surface water systems (serving at least 10,000 people) or systems with multiple plants. Thus, the majority of ground water systems, small surface water systems, and some consecutive systems are not affected by the proposed Stage 2A requirements.

e. *TTHM and HAA5 as Indicators.* In part, both the TTHM and HAA5 classes are regulated because they occur at high levels and represent chlorination byproducts that are produced from source waters with a wide range of water quality. The combination of TTHM and HAA5 represent a wide variety of compounds resulting from bromine substitution and chlorine substitution reactions (*i.e.*, bromoform has 3 bromines, TCAA has 3 chlorines, BDCM has one bromine and two chlorines, etc). EPA believes that the TTHM and HAA5 classes serve as an indicator for unidentified and unregulated DBPs. EPA believes that controlling the occurrence levels of TTHM and HAA5 will control the levels of all chlorination DBPs to some extent.

3. Request for Comment

EPA requests comment on the alternative MCL strategies that were considered by the Advisory Committee and the determination to propose the Preferred Alternative in combination with the IDSE as the preferred regulatory strategy. EPA also requests comment on whether the proposed approach will reduce peak DBP levels.

EPA requests comment on the phased MCL strategy and whether or not it will facilitate compliance with the LRAA. EPA also requests comment on the Stage 2A MCLs of 0.120 mg/L TTHM and 0.100 mg/L HAA5 as LRAAs and on the long-term MCLs of 0.080 mg/L TTHM and 0.060 mg/L HAA5 as LRAAs.

E. Requirements for Peak TTHM and HAA5 Levels

1. What Is EPA Proposing Today?

Today, EPA is proposing that, concurrent with Stage 2B, systems must specifically document occurrences of peak DBP levels, termed significant excursions. In support of this provision, EPA is proposing that States, as a special primacy condition, develop criteria for determining whether a system has a significant excursion. EPA has developed draft guidance for systems and States on how systems may determine whether they have significant excursions. EPA is also proposing that a system that has a significant excursion must: (1) Evaluate distribution system operational practices to identify opportunities to reduce DBP levels (such as tank management to reduce residence time and flushing programs to reduce disinfectant demand), (2) prepare a written report of the evaluation, and (3) no later than the next sanitary survey, review the evaluation with their State. This review will take place under the sanitary survey components calling for the State to review monitoring, reporting, and data verification and system management and operation.

2. How Was This Proposal Developed?

Because individual measurements from a location are averaged over a four-quarter period to determine compliance, there may be occurrence levels that exceed the MCL even when a system is in compliance with an LRAA MCL. EPA and the Advisory Committee were concerned about these exposures to peak levels of DBPs and the possible risk they might pose. This concern was clearly reflected in the Agreement in Principle, which states,

''Recognizing that significant excursions of DBP levels will sometimes occur, even when systems are in full compliance with the enforceable MCL, public water systems that have significant excursions during peak periods are to refer to EPA guidance on how to conduct peak excursion evaluations, and how to reduce such peaks. Such excursions will be reviewed as part of the sanitary survey process. EPA guidance on DBP level excursions will be issued prior to promulgation of the final rule and will be developed in consultation with stakeholders.''

In evaluating this recommendation, EPA believes that the Advisory Committee's intent was clear with regard to the need for guidance on how to evaluate and reduce significant excursions. However, the Agreement is less clear on how, and where, to define what constitutes a significant excursion, and how to define the scope of the evaluation. EPA draft guidance recommends several approaches for determining whether significant excursions have occurred. While today's proposal requires an evaluation only of distribution system operational practices, EPA believes that many systems would benefit from a broader evaluation that includes treatment plant and other system operations.

EPA recognizes that different stakeholders have different points of view on whether specific criteria that initiate the evaluation of significant excursions should be included in the rule or in guidance. EPA also recognizes that different stakeholders may have different perspectives on how to identify a significant excursion. For this proposal, EPA has prepared draft guidance for systems and States on how to (1) determine whether a significant excursion has occurred, using several different options, (2) conduct significant excursion evaluations, and (3) reduce significant excursion occurrence.

3. Request for Comment

EPA requests comment on the proposed approach for addressing significant excursions and on the draft guidance. Is a special primacy condition the appropriate means for allowing flexibility in identifying significant excursions while ensuring that such evaluations occur? Is the sanitary survey the appropriate mechanism for reviewing significant excursion data with the State? Should a system be required to take corrective action when significant excursions occur? Should the required scope of the evaluation be expanded beyond distribution system operations?

EPA also requests comment on whether specific criteria that initiate the evaluation of significant excursions should be included in the rule or in guidance. EPA requests comment on how to identify significant excursions (regardless of whether the criteria are in the rule or in guidance). For example, should the significant excursion be based on an individual measurement, *e.g.*, any measurement being 25 or 50% over either the TTHM or HAA5 MCLs? Alternatively, should the determination of a significant excursion be based on a certain level of variability among multiple measurements? For example,

should the significant excursion be based on the standard deviation of the LRAA exceeding specific numerical values for either TTHM (*e.g.*, 0.020 mg/l) or HAA5 (*e.g.*, 0.015 mg/L)? Or should the excursion be based on a relative measure of variability (*e.g.*, a relative standard deviation exceeding 25% or 50%) with the condition of a threshold average concentration also being exceeded (*e.g.*, an LRAA needing to be at least 0.040 mg/l for TTHM or 0.030 mg/l for HAA5)? EPA requests comment on the above approaches or alternative approaches for determining whether a significant excursion has occurred. EPA also requests comment on whether different approaches may be appropriate for large and small systems.

F. BAT for TTHM and HAA5

1. What Is EPA Proposing Today?

Today, EPA is proposing that the best available technology (BAT) for the TTHM and HAA5 LRAA MCLs (0.080 mg/L and 0.060 mg/L respectively) be one of the three following technologies:

(1) GAC adsorbers with at least 10 minutes of empty bed contact time and an annual average reactivation/replacement frequency no greater than 120 days, plus enhanced coagulation or enhanced softening.

(2) GAC adsorbers with at least 20 minutes of empty bed contact time and an annual average reactivation/replacement frequency no greater than 240 days.

(3) Nanofiltration (NF) using a membrane with a molecular weight cut off of 1000 Daltons or less (or demonstrated to reject at least 80% of the influent TOC concentration under typical operating conditions).

EPA is proposing a different BAT for consecutive systems than for wholesale systems to meet the TTHM and HAA5 LRAA MCLs. The proposed consecutive system BAT is chloramination with management of hydraulic flow and storage to minimize residence time in the distribution system.

2. How Was This Proposal Developed?

a. *Basis for the BAT.* The Safe Drinking Water Act directs EPA to specify BAT for use in achieving compliance with the MCL. Systems unable to meet the MCL after application of BAT can get a variance (*see* section V.L. for a discussion of variances). Systems are not required to use BAT in order to comply with the MCL. They can use other technologies as long as they meet all drinking water standards and are approved by the State.

EPA examined BAT using two different methods: (1) EPA analyzed data from the Information Collection Rule treatment studies and (2) EPA used the Surface Water Analytical Tool (SWAT), a model developed to compare alternative regulatory strategies. Both analyses support the BAT options proposed today. The results of each analyses are presented in the following two sections.

i. BAT analysis using the Information Collection Rule treatment studies. EPA analyzed data from the Information Collection Rule treatment studies (Information Collection Rule Treatment Study Database CD–ROM, Version 1.0, USEPA 2000m; Hooper and Allgeier 2002). The treatment studies were designed to evaluate the technical feasibility of using GAC and NF to remove DBP precursors prior to the addition of chlorine-based disinfectants. Systems were required to conduct an Information Collection Rule treatment study based on TOC levels in the source or finished water. Specifically, surface water plants with annual average source water TOC concentrations greater than 4 mg/L and ground water plants with annual average finished water TOC concentrations greater than 2 mg/L were required to conduct treatment studies. Thus, the plants required to conduct treatment studies generally had waters with organic DBP precursor levels that were significantly higher than the Information Collection Rule national plant medians of 2.7 mg/L for source water at surface water plants and 0.2 mg/L for finished water at ground water plants (USEPA 2003o).

Plants that conducted GAC studies typically evaluated performance at two empty bed contact times, 10 and 20 minutes, over a wide range of operational run times to evaluate the variable nature of TOC removal by GAC. This allowed GAC performance to be assessed with respect to empty bed contact time as well as reactivation/replacement frequency. Plants that conducted membrane treatment studies evaluated one or two nanofiltration membranes with molecular weight cutoffs less than 1000 Daltons. Regardless of the technology evaluated, all treatment studies evaluated DBP formation in the effluent from the advanced process under simulated distribution system conditions representative of the average residence time and using free chlorine as the primary and residual disinfectant. (For more information on the Information Collection Rule treatment study requirements and testing protocols, see USEPA 1996 a and b.)

Based on the treatment study results, GAC is effective for controlling DBP formation for waters with influent TOC concentrations below approximately 6 mg/L (based on the Information Collection Rule and NRWA data, over 90 percent of plants have average influent TOC levels below 6 mg/L (USEPA 2003o)). Of the plants that conducted an Information Collection Rule GAC treatment study, approximately 70% of the surface water plants studies could meet the 0.080 mg/L TTHM and 0.060 mg/L HAA5 MCLs, with a 20% safety factor (*i.e.*, 0.064 mg/L and 0.048 mg/L, respectively) using GAC with 10 minutes of empty bed contact time and a 120 day reactivation frequency, and 78% of the plants could meet the MCLs with a 20% safety factor using GAC with 20 minutes of empty bed contact time and a 240 day reactivation frequency. As discussed previously, the treatment studies were conducted at plants with poorer water quality than the national average. Therefore, EPA believes that much higher percentages of plants nationwide could meet the MCLs with the proposed GAC BATs.

Among plants using GAC, larger systems would likely realize an economic benefit from on-site reactivation, which could allow them to use smaller, 10-minute empty bed contact time contactors with more frequent reactivation (*i.e.*, 120 days or less). Most small systems would not find it economically advantageous to install on-site carbon reactivation facilities, and thus would opt for larger, 20-minute empty bed contact time contactors, with less frequent carbon replacement (*i.e.*, 240 days or less).

The proposed reactivation/replacement interval for the 20 minute contactor (*i.e.*, 240 days) is double the reactivation/replacement interval for 10 minute contactor (*i.e.*, 120 days). This is based on the assumption of a linear relationship between empty bed contact time and the reactivation interval (*e.g.*, a doubling of the empty bed contact time will result in a doubling of the reactivation interval). The data from the Information Collection Rule treatment studies indicates that this linear relationship may not always hold and that doubling the empty bed contact time generally results in more than a doubling of the reactivation interval. While there may be some operational advantage in using larger empty bed contact times, the larger contactors will result in additional capital expenditures. Furthermore, the economic optimization of a GAC process must also consider the number of smaller contactors in parallel, since it may be advantageous to operate a larger number of smaller contactors in parallel, allowing each individual contactor to be

operated for a longer period of time. Based on these considerations, and the analysis of subject matter experts, it was concluded that the proposed combination of GAC empty bed contact times and reactivation/replacement intervals were reasonable for BAT.

The Information Collection Rule treatment study results also demonstrated that nanofiltration was the better DBP control technology for ground water sources with high TOC concentrations (*i.e.*, above approximately 6 mg/L). The results of the membrane treatment studies showed that all ground water plants could meet the 0.080 mg/L TTHM and 0.060 mg/L HAA5 MCLs, with a 20% safety factor (*i.e.*, 0.064 mg/L and 0.048 mg/L, respectively) at the average distribution system residence time using nanofiltration. Nanofiltration would be less expensive than GAC for high TOC ground waters, which generally require minimal pretreatment prior to the membrane process. Also, nanofiltration is an accepted technology for treatment of high TOC ground waters in Florida and parts of the Southwest, areas of the country with elevated TOC levels in ground waters.

ii. *BAT analysis using the SWAT.* The second method that EPA used to examine alternatives for BAT was the SWAT model that was developed to compare alternative regulatory strategies. EPA modeled the following BAT options: enhanced coagulation/softening with chlorine (the Stage 1 DBPR BAT); enhanced coagulation/softening with chlorine and no predisinfection; enhanced coagulation and GAC10; enhanced coagulation and GAC20; and enhanced coagulation and chloramines. Enhanced coagulation/softening is required under the Stage 1 DBPR at subpart H conventional filtration plants. In the model, GAC10 was defined as granular activated carbon with an empty bed contact time of 10 minutes and a reactivation or replacement interval of 90 days or longer. GAC20 was defined as granular activated carbon with an empty bed contact time of 20 minutes and a reactivation or replacement interval of 90 days or longer. EPA assumed that systems would be operating to achieve both the Stage 2B MCLs of 0.080 mg/L TTHM and 0.060 mg/L HAA5 as an LRAA and the SWTR removal and inactivation requirements of 3-log for *Giardia* and 4-log for viruses. EPA also evaluated the BAT options under the assumption that plants operate to achieve DBP levels 20% below the MCL (safety factor). These assumptions along with other inputs for the SWAT runs are consistent with those used in the Economic Analysis of today's proposed rule (USEPA 2003i).

The compliance percentages forecasted by the SWAT model are indicated in Table V–1. EPA estimates that more than 97% of large systems will be able to achieve the Stage 2B MCLs regardless of post-disinfection choice if they were to apply one of the proposed GAC BATs, *i.e.*, enhanced coagulation (EC) and GAC10 (Seidel Memo, 2001). As shown in the Stage 2 DBPR Occurrence document (USEPA 2003o), the source water quality (*e.g.*, DBP precursor levels) in medium and small systems is expected to be comparable to or better than that for the large systems. Based on the large system estimate, EPA believes it is conservative to assume that at least 90% of medium and small systems will be able to achieve the Stage 2B MCLs if they were to apply one of the proposed GAC BATs. EPA assumes that small systems may adopt GAC20 in a replacement mode (with replacement every 240 days) over GAC10 because it may not be economically feasible for some small systems to install and operate an on-site GAC reactivation facility. Moreover, some small systems may find nanofiltration cheaper than the GAC20 in a replacement mode if their specific geographic locations cause a relatively high cost for routine GAC shipment.

TABLE V–1.—SWAT MODEL PREDICTIONS OF PERCENT OF LARGE PLANTS IN COMPLIANCE WITH TTHM AND HAA5 STAGE 2B MCLS AFTER APPLICATION OF SPECIFIED TREATMENT TECHNOLOGIES

Technology*	Compliance with 0.080 mg/L (TTHM)/0.060 mg/L (HAA5) LRAAs			Compliance with 0.064 mg/L (TTHM)/0.048 mg/L (HAA5) LRAAs (MCLs with 20% safety factor)		
	Residual disinfectant		All systems	Residual disinfectant		All systems
	Chlorine	Chloramine		Chlorine	Chloramine	
Enhanced Coagulation (EC)	73.5	76.9	74.8	57.2	65.4	60.4
EC (no predisinfection)	73.4	88.0	78.4	44.1	62.7	50.5
EC & GAC10	100	97.1	99.1	100	95.7	98.6
EC & GAC20	100	100	100	100	100	100
EC & All Chloramines	NA	83.9	NA	NA	73.6	NA

* Enhanced coagulation/softening is required under the Stage 1 DBPR for conventional plants.

b. *Basis for the Consecutive System BAT.* EPA believes that the best compliance strategy for consecutive systems is to collaborate with wholesalers on the water quality they need. For consecutive systems that are having difficulty meeting the MCLs, EPA is proposing a BAT of chloramination with management of hydraulic flow and storage to minimize residence time in the distribution system. EPA is proposing a different BAT than for wholesale systems because a consecutive system's source water has already been disinfected and contains DBPs that cannot be effectively removed or controlled with the BATs proposed for wholesale systems. EPA believes the proposed consecutive system BAT is an effective means for consecutive systems to meet the MCLs.

Chloramination has been used for residual disinfection for many years to minimize the formation of chlorination DBPs, including TTHM and HAA5 (Stage 2 Technology and Cost Document, USEPA 2003k). The BAT provision to manage hydraulic flow and minimize residence time in the distribution system is to facilitate the maintenance of the chloramine residual and minimize the likelihood for nitrification. Nitrification, the process by which microbes convert free ammonia to nitrate and nitrite, is a concern for systems using chloramines. Nitrification, however, can be controlled with appropriate chlorine to ammonia ratios, increasing flow in low demand areas, and increasing storage tank turnover. EPA proposes that systems implementing the consecutive system BAT must do the following: (1) Maintain a chloramine residual throughout the distribution system, (2) develop and submit a plan that indicates actions that will be taken to minimize the residence time of water

within the distribution system, (3) have the plan approved by the Primacy Agency, and (4) implement the plan as approved by the Primacy Agency. Minimum components of the management plan would include periodic scheduled flushing of all dead end pipes and storage vessels through which water is delivered to customers, and hydraulic flow control procedures that routinely circulate water in all storage vessels within the distribution system.

EPA believes that the BATs proposed for wholesale systems are not appropriate for consecutive systems because each of these BATs, when applied to water with DBPs, raises other concerns. GAC is not cost-effective for removing DBPs. In addition, dioxin, a carcinogen, may be formed during GAC regeneration if GAC has been used to adsorb chlorinated DBPs. Nanofiltration is only moderately effective at removing THMs or HAAs if membranes that have a very low molecular weight cutoff and very high cost of operation are employed. Therefore, GAC and nanofiltration are not appropriate BATs for consecutive systems.

3. Request for Comment

EPA requests comment on the proposed BATs including the BAT for consecutive systems.

G. MCL, BAT, and Monitoring for Bromate

1. What Is EPA Proposing Today?

EPA is proposing today that the MCL for bromate for systems using ozone remain at 0.010 mg/L as an RAA for samples taken at the entrance to the distribution system as established by the Stage 1 DBPR and as provided for under the risk-balancing provisions of section 1412(b)(5) of the SDWA. EPA's proposal is consistent with the recommendation of the Stage 2 M–DBP Advisory Committee, which considered the potential that reducing the bromate MCL could both increase the concentration of other DBPs in the drinking water and interfere with the efficacy of microbial pathogen inactivation. In addition, as required by the SDWA and as recommended by the Advisory Committee, EPA will review the bromate MCL as part of the 6-year review process and determine whether the MCL should remain at 0.010 mg/L or be reduced to a lower level. As a part of that review, EPA will consider the increased utilization of alternative technologies, such as UV, and whether the risk/risk concerns reflected in today's proposal remain valid.

Because EPA is not revising the Stage 1 DBPR bromate MCL, EPA is not proposing a revised BAT for bromate. The Stage 1 DBPR BAT for bromate is defined as control of ozone treatment processes to reduce production of bromate. EPA also determined that it was not necessary to regulate bromate in non-ozone systems that use hypochlorite.

Finally, EPA is proposing to modify the criterion for a system that uses ozone (and therefore must monitor for bromate) to qualify for reduced bromate monitoring from one sample per ozone plant per month to one sample per plant per quarter.

2. How Was This Proposal Developed?

a. *Bromate MCL.* Bromate is a principal byproduct from ozonation of bromide-containing source waters. As described in more detail later, making the bromate MCL more stringent has the potential to decrease current levels of microbial protection, impair the ability of systems to control resistant pathogens like *Cryptosporidium,* and increase levels of DBPs from other disinfectants that may be used instead of ozone.

EPA estimates that the 1 in 10,000 excess lifetime cancer risk level for bromate is 0.005 mg/L. EPA proposed and ultimately finalized an MCL of 0.010 mg/L in the Stage 1 DBPR, primarily because available analytical detection methods for bromate could only reliably measure to 0.01 mg/L (USEPA 1994b). Analytical methods for bromate are now available to quantify bromate concentrations as low as 0.001 mg/L. Due to the availability of lower detection methods for bromate, as part of the Stage 2 M–DBP Advisory Committee deliberations, EPA considered revising the MCL to 0.005 mg/L or lower.

As a disinfectant, ozone is highly effective against a broad range of microbial pathogens including bacteria, viruses, and protozoa. Moreover, ozone is one of the few disinfectants available in water treatment that is capable of inactivating *Cryptosporidium,* a protozoan which can cause severe intestinal disorders and can be deadly to those with compromised immune systems. The oxidizing properties of ozone are also valuable for treatment objectives like control of tastes and odors and removal of iron and manganese. In contrast, chlorine, the most common disinfectant and oxidant in water treatment, is substantially less effective for controlling *Cryptosporidium.* Chlorine dioxide, while capable of providing low levels of inactivation for *Cryptosporidium,* typically cannot be used at high doses without violating the MCL for chlorite, a byproduct of chlorine dioxide. UV light is highly effective against *Cryptosporidium* and *Giardia* and most viruses, but has not been used extensively to treat drinking water in the United States.

As of early 2000, there were 332 plants of various sizes using ozone (Overbeck 2000) and 58 plants that were planning to install ozonation (Rice 2000—personal communication: email 7/14/2000). A significant percent of current ozone plants use ozone for some portion of their disinfection objective (Rice, 2000—personal communication: email 7/14/2000). An ozone system that could not meet a 0.005 mg/L bromate MCL would have three primary options: decrease the ozone dose; switch to a different disinfectant; or install an advanced filtration process such as membranes, sometimes in combination with the first two options. Of these three options, the third is likely effective but very expensive, while the first two create the risk either of reducing microbial protection for a wide range of microbial pathogens, or of increasing formation of DBPs other than bromate.

In an attempt to achieve a lower level of bromate, some systems might be driven to reduce the applied ozone dose to the minimum necessary for regulatory compliance or switch to other treatment processes. Many systems currently achieve more disinfection than is required by the SWTR and if a system were to simply lower the ozone dose, protection from pathogens may be compromised. In addition, since inactivation of *Cryptosporidium* requires much higher ozone doses than *Giardia* inactivation, systems cannot achieve *Cryptosporidium* inactivation with low ozone doses.

If a system were to lower the ozone dose and supplement with an additional disinfectant, or switch entirely to a different disinfectant, the system may not achieve the same level of microbial protection as is afforded by ozonation. Also, other potentially harmful byproducts from the different disinfectant would be produced.

During the Stage 2 M–DBP Advisory Committee discussions, the TWG evaluated the impact of reducing the bromate MCL from 0.010 mg/L to 0.005 mg/L as an annual average. The TWG concluded that many systems currently using ozone or predicted to install ozone to inactivate microbial pathogens would have significant difficulty maintaining bromate levels at or below 0.005 mg/L. In the Information Collection Rule survey of systems serving greater than 100,000 people, all of the ozone plants had annual average

bromate concentrations below the 0.010 mg/L level (USEPA 2003o). However, approximately 20% of these ozone plants did not meet the 0.005 mg/L level. Using the assumption that systems operate their plants using a safety margin of 20% below the MCL, about 30% of ozone plants did not reliably attain this level (0.004 mg/L). During the Information Collection Rule, for the first half of 1998, much of the U.S. was wetter than normal (NOAA 1998). This hydrogeological condition often leads to lower than normal bromide concentrations due to dilution by higher water flows. In the second half of 1998, California continued to experience El Nino rains (40% of Information Collection Rule ozone plants were located in California) but many other areas of the country such as Texas and Florida experienced a drought. The percentage of ozone systems unable to achieve 0.005 mg/L bromate would likely increase during years in which bromide concentrations in California were elevated as consequence of drought.

The ability of systems to use ozone to meet *Cryptosporidium* treatment requirements proposed under the LT2ESWTR would be diminished if the bromate MCL was decreased from 0.010 to 0.005 mg/L. The proposed LT2ESWTR will require a subset of systems, based on source water pathogen levels, to provide from 1.0 to 2.5 logs of additional treatment for *Cryptosporidium*. Ozone doses required to inactivate *Cryptosporidium* are substantially greater than those required for Giardia and viruses. To assess the potential impact of a lower bromate MCL on the ability of systems to treat for *Cryptosporidium*, the TWG estimated the percentage of treatment plants that could use ozone to inactivate from 0.5 to 2.5 log of *Cryptosporidium* without exceeding a bromate MCL of either 0.005 or 0.010 mg/L (USEPA 2003i). These estimations were based on analyses of Information Collection Rule source water quality data, coupled with projected ozone dose requirements for *Cryptosporidium*. This analysis suggests that 88% of systems could use ozone to achieve 1 log of *Cryptosporidium* inactivation and 47% could inactivate 2 log while complying with a bromate MCL of 0.010 mg/L. With the bromate MCL reduced to 0.005 mg/L, though, these estimates drop to 67% of systems able to inactivate 1 log of *Cryptosporidium* with ozone and only 14% able to inactivate 2 log. The number of plants predicted to be able to treat for *Cryptosporidium* with ozone and meet a 0.005 mg/L standard was further reduced when periods of higher bromide levels, similar to drought conditions, were modeled. This trend is further exacerbated since the proposed LT2ESWTR would require more stringent ozone operating conditions (such as higher ozone doses and longer contact times) than under current surface water treatment requirements for the subset of plants with higher *Cryptosporidium* concentrations in their source water and would thus result in higher bromate formation than assumed by the TWG. Thus, as systems are required to meet more stringent inactivation requirements, a large number of systems would be forced to select treatment processes other than ozone if the bromate standard were lowered to 0.005 mg/L.

The Stage 2 M–DBP Advisory Committee considered that reducing the bromate MCL to 0.005 mg/L could both increase the concentration of other DBPs in the drinking water and interfere with the efficacy of microbial pathogen inactivation. Therefore, the Advisory Committee recommended, for purposes of the Stage 2 DBPR, that the bromate MCL remain at 0.010 mg/L. EPA will review the bromate MCL as part of the ongoing 6-year review process and determine whether the MCL should remain at 0.010 mg/L or be reduced to a lower concentration based on new information.

Today, EPA is proposing to leave the bromate MCL at 0.010 mg/L, consistent with the Advisory Committee's recommendation. EPA believes that this is a prudent step at this time, in order to preserve microbial protection. EPA will continue to analyze any new bromate health effects data as they become available. It is possible that EPA may determine that the bromate MCL should be decreased to 0.005 mg/L or lower in a future rulemaking.

b. *Bromate in hypochlorite solutions.* The Stage 2 M–DBP Advisory Committee also discussed the issue of hypochlorite solutions contaminated with bromate. This contamination can occur during the production of hypochlorite solutions from natural salt deposits. The range of bromate concentrations in hypochlorite stock solutions varies widely (Bolyard *et al.* 1992; Chlorine Institute 1999, 2000). Moreover, the bromate contained in the stock solution is diluted upon addition to the drinking water. From data on Information Collection Rule ozone systems that used hypochlorite versus those that used gaseous chlorine, the TWG estimated that hypochlorite solutions contributed an average of 0.001 mg/L bromate.

The Advisory Committee discussed these results and, since the bromate level resulting from hypochlorite solutions was small compared to the MCL, did not recommend regulating bromate at systems not using ozone (non-ozone systems). The Advisory Committee recognized that ozone systems also using hypochlorite will have to be careful about the quality of their stock solution.

c. *Criterion for reduced bromate monitoring.* Because more sensitive bromate methods are now available, EPA is proposing a new criterion for reduced bromate monitoring. In the Stage 1 DBPR, EPA required ozone systems to demonstrate that source water bromide levels, as a running annual average, did not exceed 0.05 mg/L. EPA elected to use bromide as a surrogate for bromate in determining eligibility for reduced monitoring because the available analytical method for bromate was not sensitive enough to quantify levels well below the bromate MCL of 0.010 mg/L.

In section V.O., EPA is proposing several new analytical methods for bromate that are far more sensitive than the existing method. Since these methods can measure bromate to levels of 0.001 mg/L or lower, EPA is proposing to replace the criterion for reduced bromate monitoring (source water bromide running annual average not to exceed 0.05 mg/L) with a bromate running annual average not to exceed 0.0025 mg/L.

In the past, EPA has often set the criterion for reduced monitoring eligibility at 50% of the MCL, which would be 0.005 mg/L. However, as discussed before, EPA is proposing that the MCL for bromate remain at 0.010 mg/L, a level that is higher than EPA's usual excess cancer risk range of 10(-4) to 10(-6) at 2x10(-4) because of risk tradeoff considerations. EPA believes that the decision for reduced monitoring is separate from these risk tradeoff considerations. Risk tradeoff considerations influence the selection of the MCL, while reduced monitoring requirements are designed to ensure that the MCL, once established, is reliably and consistently achieved. Requiring a running annual average of 0.0025 mg/L for the reduced monitoring criterion allows greater confidence that the system is achieving the MCL and thus ensuring public health protection.

3. Request for Comment

EPA requests comment on the decision to maintain the Stage 1 DBPR bromate BAT and MCL of 0.010 mg/L. EPA also requests comment on the decision not to require bromate

monitoring at non-ozone systems that use hypochlorite.

EPA requests comment on whether the criterion for reduced bromate monitoring should be set at a level other than 0.0025 mg/L, and a rationale for setting it at that level.

H. Initial Distribution System Evaluation (IDSE)

The IDSE is an important part of today's proposed regulation that is intended to identify sample locations for Stage 2B compliance monitoring that represent distribution system sites with high DBP concentrations.

1. What is EPA Proposing Today?

EPA is proposing a requirement for systems to perform an Initial Distribution System Evaluation (IDSE). Systems will collect data on DBP levels throughout their distribution system, evaluate these data to determine which sampling locations are most representative of high DBP levels and compile this information into a report for submission to the primacy agency.

a. *Applicability.* All community water systems, and large nontransient noncommunity water systems (those serving at least 10,000 people) that add a primary or residual disinfectant other than ultraviolet light, or that deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light (*i.e.*, consecutive systems) are required to conduct an IDSE under the proposed rule. The IDSE requirement for systems serving fewer than 500 people may be waived if the State determines that the monitoring site approved for Stage 1 DBPR compliance is sufficient to represent both high HAA5 and high TTHM concentrations. The State must submit criteria for this waiver determination to EPA as part of their primacy application. States may decide to waive the IDSE requirement for all systems serving fewer than 500 or some subset of all systems serving fewer than 500 if the State determines that it is appropriate. EPA is developing an IDSE Guidance Manual that will include guidance to States on situations for which a waiver would be appropriate (USEPA 2003j).

b. *Data collection.* IDSEs are intended to help identify and select Stage 2B compliance monitoring sites that represent high concentrations of TTHMs and HAA5. To be able to identify these sites, systems and States must have monitoring data collected from throughout their distribution systems. Therefore, under today's proposed rule, systems are required to collect monitoring data on the concentrations of these DBPs. There are three possible approaches by which a system can meet the IDSE requirement.

i. *Standard monitoring program.* The standard monitoring program requires one year of monitoring on a specified schedule throughout the distribution system. The frequency and number of samples required under the standard monitoring program is determined by source water type, number of treatment plants, and system size (see section V.J. for a more detailed discussion of the specific monitoring requirements). Prior to commencing the standard monitoring program, systems must prepare a monitoring plan. EPA's IDSE Guidance Manual will provide guidance on selecting monitoring sites and conducting the standard monitoring program (USEPA 2003j). As recommended by the Advisory Committee, EPA is proposing that the standard monitoring program results are not to be used for determining compliance with MCLs and that systems will not be required to report IDSE results in the Consumer Confidence Report.

ii. *System specific study.* Under this approach, systems may choose to perform a system-specific study based on earlier monitoring studies or other data analysis in lieu of the standard monitoring program. These studies must provide equivalent or better information than the standard monitoring program for selecting sites that represent high TTHM and HAA5 levels. Examples of alternative studies are: (1) Recent TTHM and HAA5 monitoring data that encompass a wide range of sample sites representative of the distribution system, including those judged to represent high TTHM and HAA5 concentrations and (2) hydraulic modeling studies that simulate water movement in the distribution system. Historical TTHM and HAA5 results submitted by systems must have been generated by certified laboratories and must include the system's most recent data. Treatment plant and distribution system characteristics at the time of historical data collection must reflect the current plant operations and distribution system. EPA's IDSE Guidance Manual will include a guidance for system-specific studies and how to determine whether site-specific data could be sufficient to meet the IDSE requirements (USEPA 2003j).

iii. *40/30 certification.* Under this approach, systems certify to their primacy agency that all required Stage 1 DBPR compliance samples were properly collected and analyzed during the two years prior to the start of the IDSE, and all individual compliance samples were ≤ 0.040 mg/L for TTHM and ≤0.030 mg/L for HAA5. Properly collected and analyzed compliance samples are those taken at required locations at times specified in the system's Stage 1 DBPR monitoring plan and analyzed by certified laboratories. Systems not required to collect Stage 1 DBPR compliance samples can not utilize the 40/30 certification approach because they do not have data to determine sampling locations that represent high concentrations of TTHMs and HAA5. Systems that qualify for reduced monitoring for the Stage 1 DBPR during the two years prior to the start of the IDSE, may use results of both routine and reduced Stage 1 DBPR monitoring to prepare the 40/30 certification. Large ground water systems may not have two years of HAA5 data to evaluate due to the timing of the Stage 1 DBPR and the IDSE requirements. EPA is proposing that, if two years worth of HAA5 data are not available, large ground water systems evaluate the most recent two years of TTHM data including data collected in accordance with the 1979 TTHM rule and all available HAA5 compliance data collected up to nine months following promulgation of this rule when making the 40/30 certification. Similarly, small wholesale and consecutive systems required to submit their IDSE report no later than two years after publication of the final rule will evaluate all available Stage 1 DBPR compliance data collected up to nine months following promulgation.

c. *Implementation.* All systems subject to the IDSE requirement under the proposed rule (except those receiving a very small system waiver from the State) must submit a report to the primacy agency. The requirements for the report depend upon the IDSE data collection alternative that the system selects and are listed in Table V–2.

TABLE V–2.—IDSE REPORT REQUIREMENTS

IDSE data collection alternative	IDSE report requirements
Standard Monitoring Program.	• All standard monitoring program TTHM and HAA5 analytical results, the original monitoring plan, and an explanation of any deviations from that plan. • A schematic of the distribution system. • Recommendations and justification for where and during what month(s) Stage 2B monitoring should be conducted.
System Specific Study	• All studies, reports, analytical results and modeling. • A schematic of the distribution system. • Recommendations and justification for where and during what month(s) Stage 2B monitoring should be conducted
40/30 Certification	• A certification that all required compliance samples were properly collected and analyzed during the two years prior to the start of the IDSE and all individual compliance samples were ≤ 0.040 mg/L for TTHM and ≤0.030 mg/L for HAA5. • Results of compliance samples taken after the IDSE was scheduled to begin and before the IDSE report was submitted. • Recommendations for where and during what month(s) Stage 2B monitoring should be conducted.

All IDSE reports must include recommendations for the location and schedule for the Stage 2B monitoring. The number of sampling locations and the criteria for their selection are described in § 141.605 of today's proposed rule, and in section V.I. Generally, a system must recommend locations with the highest LRAAs unless it provides a rationale (such as ensuring geographical coverage of the distribution system instead of clustering all sites in a particular section of the distribution system) for selecting other locations. Systems must consider both their compliance data and IDSE data in making this determination. In addition to specifying a protocol for identifying recommended monitoring sites in the rule language, EPA will provide guidance for recommending compliance monitoring sites (including rationales for systems to recommend sites that do not have the highest LRAA concentrations) and preparing the IDSE report. EPA will also provide a process to address IDSE implementation issues during the period prior to State primacy. At the time that systems serving fewer than 10,000 people conduct their monitoring or analyze their site-specific data, many States may have primacy.

The compliance schedules for the IDSE and other requirements of the proposed rule are described in detail in section V.J. Systems serving at least 10,000 people (and those smaller wholesale and consecutive systems associated with larger systems) will be collecting data for their IDSE prior to State primacy. EPA intends to have an IDSE Guidance Manual available to assist systems in performing the IDSE (USEPA 2003j). Primacy agencies will specify requirements for systems that do not submit an IDSE report, or that have not, in the determination of the primacy agency, conducted an adequate IDSE, in addition to giving the system a monitoring and reporting violation. These requirements may include repeating the IDSE while conducting compliance monitoring at Stage 1 monitoring sites or conducting Stage 2 compliance monitoring at sites selected by the State.

Consecutive systems are subject to the IDSE requirements of today's proposed rule. IDSE requirements for consecutive systems are largely the same as for other systems, but with two differences. First, the schedule for completion of the IDSE by a consecutive system is dependent upon the population of the wholesale system. If a consecutive system serving fewer than 10,000 buys water from a system that serves 10,000 or more people, then this consecutive system must comply within the same schedule as that for systems ≥ 10,000. Conversely, if a wholesale system serves < 10,000 but sells water to a consecutive system serving ≥ 10,000, then both the wholesale system and the consecutive system must complete the IDSE within the same schedule as that for systems ≥ 10,000. The second difference for consecutive systems is that the procedure for recommending Stage 2B compliance monitoring locations is modified for consecutive systems purchasing or receiving all of their finished water from a wholesale system. These modified procedures are described in § 141.605 of today's proposed rule, and in section V.I.

2. How Was This Pr oposal Developed?

The IDSE was recommended by the Stage 2 M–DBP Advisory Committee. The Advisory Committee believed that maintaining Stage 1 DBPR sampling sites for the Stage 2 DBPR would not accomplish the objective of providing consistent and equitable protection across the distribution system.

a. *Applicability.* The M–DBP Advisory Committee recommended that an IDSE be performed on all community systems to help to identify the locations in the distribution system that represent high DBP concentrations. EPA believes that large nontransient noncommunity water systems (those serving at least 10,000 people) also have distribution systems that require further evaluation to determine the most representative locations of high DBP levels. Therefore, large nontransient noncommunity systems and all community systems are required to perform an IDSE under today's proposal.

States may waive the IDSE requirement for those very small systems (systems that serve fewer than 500 people) that monitor for Stage 1 DBPR compliance at the maximum residence time site if the State determines their maximum residence time Stage 1 compliance monitoring site is likely to capture both the high TTHM and high HAA5 levels within the distribution system. The Advisory Committee recommended this waiver be included because many very small systems have small distribution systems and the high TTHM and high HAA5 site is at the same location. The Advisory Committee also recognized that not all very small systems have a single monitoring site that would represent both high TTHM and high HAA5 levels (*e.g.*, some rural systems with large distribution systems) and thus did not recommend a blanket IDSE waiver for all very small systems.

b. *Data collection.* The data collection requirements of the IDSE are designed to find both high TTHM and high HAA5 sites (*see* section V.I. for IDSE monitoring site locations). The IDSE is intended as a one-time requirement. High TTHM and HAA5 concentrations often occur at different locations in the

distribution system. The Stage 1 DBPR monitoring sites identified as the maximum location are selected according to residence time. Because HAAs can degrade in the distribution system in the absence of sufficient disinfectant residual (Baribeau *et al.* 2000), residence time alone is not an ideal criterion for identifying high HAA5 sites. The Information Collection Rule data show that of the four monitoring locations sampled per system, the one identified as the maximum residence time location was often not the location where the highest DBP levels were found. In fact, over 60 percent of the highest HAA5 LRAAs and 50 percent of the highest TTHM LRAAs were found at sampling locations in the system other than the maximum residence time location (*see* section IV). Thus the method and assumptions used to select the Information Collection Rule monitoring sites, and the Stage 1 DBPR compliance monitoring sites, are not sufficiently reliable to select Stage 2 DBPR compliance monitoring sites that will capture high DBP levels.

This data analysis reveals that a reevaluation of monitoring sites is necessary at many systems to capture sites with high DBP levels. The Advisory Committee recommended sample locations (based on distribution disinfectant type) at widely distributed sites (*see* section V.I. for details on IDSE monitoring requirements). Monitoring at additional sites across the distribution system increases the chance of finding sites with high DBP levels and targets both DBPs that degrade, and DBPs that form, as residence time increases in the distribution system. EPA believes that the required number of monitoring locations plus Stage 1 monitoring results provides an adequate recharacterization of DBP levels throughout the distribution system, at a reasonable cost. With a recharacterization of distribution systems that focuses on both high TTHM and HAA5 occurrence, EPA believes that high occurrence sites will be better represented in this standard monitoring program. Systems will be required to take steps to address high DBP levels at points that might otherwise have gone undetected. EPA believes that the decrease in DBP exposure anticipated to result from the transition from an RAA to an LRAA will be augmented by the IDSE.

The frequency and number of samples required for the standard monitoring program decrease as system size (population served) decreases and depend on source water type. The Advisory Committee believed that the number of samples required for large and medium surface water systems was not necessary for small surface water systems and ground water systems. The majority of small systems have distribution systems with simpler designs than large systems. DBP occurrence in ground water systems is generally lower and less variable than in surface water systems due to lower and less variable precursor levels and much less temperature variation (*see* section IV).

Committee members recognized that some systems have detailed knowledge of their distribution systems by way of hydraulic modeling and/or ongoing widespread monitoring plans (well beyond that required for compliance monitoring) that would provide equivalent or superior monitoring site selection compared to IDSE monitoring. Therefore, the Advisory Committee recommended that such systems be allowed to determine new monitoring sites using system-specific data such as historical monitoring data.

Systems that certify to their State that all compliance samples taken in the two years prior to the start of the IDSE were ≤ 0.040 mg/L TTHM and ≤ 0.030 mg/L HAA5 are not required to collect additional DBP monitoring data because the Advisory Committee determined that these systems most likely would not have high peak DBP levels. EPA determined that this provision needed to be more specific for three groups of systems: (1) Those performing Stage 1 DBPR reduced monitoring, (2) large ground water systems, and (3) small systems required to conduct an early IDSE. Today's proposal clarifies that these systems may use a 40/30 certification. EPA recognizes that these systems may have less compliance data on which to base their 40/30 certifications. However, EPA believes that the data that will be available are sufficient to make a determination on the most appropriate Stage 2B monitoring locations.

c. *Implementation.* Systems are required to submit an IDSE report so that primacy agencies may review the system's IDSE data collection efforts and the Stage 2B monitoring locations recommended by the system. Systems serving at least 10,000 must submit their IDSE report two years after rule promulgation (which may be prior to primacy for some States). The M–DBP Advisory Committee recommended an implementation schedule that would allow systems sufficient time to make site-specific risk determinations and decisions regarding the simultaneous implementation of the Stage 2 DBPR and LT2ESWTR but not stretch out the compliance time frame too far into the future. This provision requires that medium and large systems conduct and complete site-specific risk determinations (*i.e.*, the IDSE and LT2ESWTR *Cryptosporidium* monitoring) as soon as possible after rule promulgation. Since small systems cannot begin their microbial monitoring until after the results from the large system microbial monitoring have been analyzed, small systems have a longer compliance time frame.

Systems that submit a 40/30 certification are required to submit that certification as part of the IDSE report and to include a recommended Stage 2B monitoring plan. The monitoring plan is required for these systems because the Stage 2B MCL compliance monitoring sites proposed today have fundamentally different objectives than the Stage 1 DBPR monitoring sites. Additionally, many systems are required to have more Stage 2 compliance monitoring sites than Stage 1 sites because high HAA5 site may be different than high TTHM sites.

3. Request for Comment

EPA requests comments on the IDSE requirement and whether it is a good tool to identify sites representative of high TTHM and high HAA5 levels.

a. *Applicability.* EPA requests comment on requiring large (serving 10,000 or more people) nontransient noncommunity water systems to perform an IDSE. Should NTNCWSs serving fewer than 10,000 people be required to conduct an IDSE? EPA also requests comment upon whether States should be able to waive IDSE requirements for very small systems (serving fewer than 500 people). Are there objective criteria that the State should use in waiving the requirement? Should the State be allowed to grant very small system waivers based on some other criterion other than serving a population <500? For example, should the State be allowed to choose a higher population cutoff? Should the State be allowed to use a non-population criterion such as simplicity of distribution system to grant a very small system waiver? If so, what should this criterion be and how should qualification be demonstrated?

b. *Data collection.* EPA requests comment on the requirements for each of the alternatives for data collection under the proposed IDSE including: the standard monitoring program, the system-specific study, and the 40/30 certification. EPA requests comment on whether systems with less than two years of routine monitoring data should be considered to have sufficient data to utilize the 40/30 certification.

Specifically EPA requests comment on whether systems on reduced monitoring, large ground water systems, and small systems required to conduct an IDSE within the first two years after promulgation should be prohibited from submitting a 40/30 certification.

c. *Implementation.* EPA requests comment on the requirement that large and medium systems must collect data and prepare their IDSE report prior to State primacy. EPA requests comment from the States regarding whether they intend to be involved in the consultations with systems collecting data for IDSE or in the review of IDSE reports that are submitted prior to State primacy. EPA is developing a plan to implement the IDSE during the period prior to State primacy. EPA requests comment on any issues that should be addressed during this period to facilitate the IDSE.

I. Monitoring Requirements and Compliance Determination for Stage 2A and Stage 2B TTHM and HAA5 MCLs

1. What Is EPA Proposing Today?

Today's proposal includes new requirements for how systems must monitor TTHM and HAA5 levels in their distribution systems and how systems must assess their monitoring results to determine compliance with TTHM and HAA5 MCLs. The new monitoring requirements are associated with the IDSE (described in section V.H) and Stage 2B of the proposed rule. The new compliance determination requirements relate to use of the locational running annual average (LRAA) for meeting proposed Stage 2A and Stage 2B MCLs for TTHM and HAA5 (described in section V.D). This section presents these proposed monitoring and compliance determination requirements for Stage 2A, the IDSE, and Stage 2B.

An important aspect of the proposed TTHM and HAA5 monitoring requirements is the use of two different approaches for determining the number of samples a system is required to collect. One approach is plant-based. Under the plant-based approach, a system's TTHM and HAA5 sampling requirements are determined by the number of treatment plants in the system and, in the case of consecutive systems, the number of consecutive system entry points. The second approach is population-based. Under the population-based approach, a system's sampling requirements are influenced by the number of people served, but not by the number of treatment plants. EPA is proposing population-based sampling requirements only for IDSE and Stage 2B monitoring by consecutive systems that purchase all of their finished water year-round. However, EPA is requesting comment on applying a population-based approach to all systems for the IDSE and Stage 2B compliance. The discussion of monitoring requirements in this section provides details on these two approaches.

A number of factors affect DBP formation, including the type and amount of disinfectant used, water temperature, pH, amount and type of precursor material in the water, and the length of time that water remains in the treatment and distribution systems. For this reason, and because DBP levels can be highly variable throughout the distribution system (as discussed in section IV), today's proposal requires systems to collect IDSE and Stage 2B samples at specific locations in the distribution system and in accordance with a sampling schedule. For purposes of determining the number of required samples, EPA intends to maintain the provision in the Stage 1 DBPR (§ 141.132(a)(2)) that multiple wells drawing raw water from a single aquifer may, with State approval, be considered one plant, and prior approvals will remain in force unless withdrawn.

a. *Stage 2A.* For Stage 2A of the proposed rule, compliance will be based on the compliance sampling sites and frequency established under the existing Stage 1 DBPR. Systems must continue to monitor for TTHM and HAA5 using a plant-based approach, as required under 40 CFR 141.132. Using these monitoring results, systems must continue to demonstrate compliance with Stage 1 MCLs of 0.080 mg/L for TTHM and 0.060 mg/L for HAA5, based on a running annual average (see 40 CFR 141.133). In addition, systems must comply with the Stage 2A MCLs of 0.120 mg/L for TTHM and 0.100 mg/L for HAA5, based on the LRAA at each Stage 1 DBPR monitoring location. Stage 1 DBPR provisions for systems to reduce the frequency of TTHM and HAA5 monitoring will still apply.

Stage 2A will primarily affect surface water systems serving at least 10,000 people or systems with multiple plants, because these systems are required to monitor at more than one location in the distribution system. Most other systems take compliance samples at only one location under Stage 1 and in these cases, the calculated LRAA will be equal to the calculated RAA.

b. *IDSE.* IDSE monitoring requirements are designed to identify locations within the distribution system with high TTHM and HAA5 levels, which will serve as Stage 2B monitoring sites. The following discussion provides details on the IDSE standard monitoring program. Section V.H identifies other approaches by which systems can meet IDSE requirements of the rule.

For IDSE monitoring, subpart H systems serving at least 10,000 people must collect samples approximately every 60 days at eight distribution system sites per plant (these are in addition to Stage 1 DBPR compliance monitoring sites). The distribution system residual disinfectant type determines the location of the eight sites, as shown in Table V–3.

Subpart H systems serving fewer than 10,000 people and all ground water systems must collect IDSE samples at two distribution system sites per plant (at sites that are in addition to the Stage 1 DBPR compliance monitoring sites) as shown in Table V–3. Subpart H systems serving 500–9,999 people and ground water systems serving at least 10,000 people must sample quarterly (approximately every 90 days); subpart H systems serving fewer than 500 people and ground water systems serving fewer than 10,000 people must sample semi-annually (approximately every 180 days).

EPA is also proposing IDSE monitoring requirements for consecutive systems. For consecutive systems that both purchase finished water and treat source water to produce finished water, IDSE requirements are the same as for non-consecutive systems with the same population and source water type (*see* Table V–3). For these consecutive systems, each consecutive system entry point (defined in section V.C) is counted as one treatment plant for purposes of determining sampling requirements. However, the State may allow a system to consider multiple consecutive system entry points to be considered a single point.

As noted previously, for consecutive systems that purchase all of their finished water year-round, EPA is proposing a population-based monitoring approach (*see* Table V–4) instead of a plant-based approach. Under the population-based approach, monitoring requirements are not influenced by the number of consecutive system entry points, but are based solely on the population served and the type of source water used. EPA believes the population-based approach is equitable and will provide representative DBP concentrations throughout distribution systems.

TABLE V–3.—PROPOSED IDSE MONITORING REQUIREMENTS

System type and population served	Distribution system disinfectant type	Number of monitoring periods	Distribution system sample locations per plant per monitoring period [1]				
			Total	Near entry point	Average residence time	High TTHM locations	High HAA5 locations
Subpart H ≥10,000	Chloramines	[2]6	8	2	2	2	2
	Chlorine	[2]6	8	1	2	3	2
Subpart H 500–9,999 or Ground Water ≥10,000.	Any	[3]4	2	0	0	1	1
Subpart Any H <500 or Ground Water <10,000.	Any	[2]4	2	0	0	1	1
Consecutive Systems	Any	—Consecutive systems that purchase 100% of their finished water year-round—see Table V.4. —Consecutive systems that also treat source water to produce finished water—plant-based monitoring at same location and frequency as a non-consecutive system with the same population and source water.					

[1] Samples must be taken at locations other than the existing Stage 1 DBPR monitoring locations. Dual sample sets (*i.e.*, a TTHM and an HAA5 sample) must be taken at each site. Sampling locations should be distributed throughout the distribution system.
[2] Approximately every 60 days.
[3] Approximately every 90 days.
[4] Approximately every 180 days.

TABLE V–4. POPULATION-BASED MONITORING FREQUENCIES AND LOCATIONS UNDER IDSE FOR CONSECUTIVE SYSTEMS THAT PURCHASE 100% OF FINISHED WATER YEAR-ROUND

Source water type	Population size category	Monitoring periods and frequency	Distribution system sample locations [1]				
			Total	Near entry points [2]	Average residence time	High TTHM locations	High HAA5 locations
Subpart H	0–499	Two 2 every 180 days) ...	2	.....	.....	1	1
	500–4,999	Four (every 90 days)	2	.....	.....	1	1
	5,000–9,999		4	.....	1	2	1
	10,000-24,999	Six (every 60 days)	8	1	2	3	2
	25,000-49,999		12	2	3	4	3
	50,000-99,999		16	3	4	5	4
	100,000-499,999		24	4	6	8	6
	500,000-1,499,000		32	6	8	10	8
	1,500,000-4,999,999		40	8	10	12	10
	≥5,000,000		48	10	12	14	12
Ground Water	0–499	Two (every 180 days)	2	.....	.....	1	1
	500–9,999		2	.....	.....	1	1
	10,000-99,999	Four (every 90 days)	6	1	1	2	2
	100,000-499,999		8	1	1	3	3
	≥500,000		12	2	2	4	4

[1] Samples must be taken at locations other than the existing Stage 1 DBPR monitoring locations. Dual sample sets (*i.e.*, a TTHM and an HAA5 sample) must be taken at each site. Sampling locations should be distributed throughout the distribution system.
[2] If the number of entry points to the distribution system is less than the specified number of sampling locations, additional samples must be taken equally at high TTHM and HAA5 locations. If there is an odd extra location number, a sample at a high TTHM location must be taken. If the number of entry points to the distribution system is more than the specified number of sampling locations, samples must be taken at entry points to the distribution system having the highest water flows.

As a part of the monitoring schedule, all systems conducting IDSE monitoring must collect samples during the peak historical month for TTHM levels or water temperature. EPA will provide guidance to assist systems in choosing IDSE monitoring locations, including criteria for selecting high TTHM and HAA5 monitoring locations.

c. *Stage 2B.* For those systems required to conduct an IDSE, Stage 2B monitoring sites are based on the system's IDSE results and Stage 1 DBPR compliance monitoring results. For those systems not required to conduct an IDSE, Stage 2B monitoring locations are based on the system's Stage 1 DBPR compliance monitoring results and an evaluation of the distribution system characteristics to identify additional monitoring locations, if required.

Consistent with the Advisory Committee recommendations, the monitoring frequency for Stage 2B is structured so that systems that monitor quarterly under the Stage 1 DBPR will continue to monitor quarterly. In addition, the monitoring schedule must include the month with the highest historical DBP concentrations.

Many systems on reduced monitoring under the Stage 1 DBPR will conduct Stage 2B compliance monitoring at different or additional locations than those used for Stage 1 compliance monitoring. Such systems must conduct routine monitoring for at least one year before being eligible for reduced monitoring under Stage 2B. Those systems that monitor at the same locations under both the Stage 1 DBPR and Stage 2B DBPR and have qualified for reduced monitoring under Stage 1 may remain on reduced monitoring at the beginning of Stage 2B.

EPA is proposing to require all systems to develop and maintain a DBP monitoring plan that must include the following information: monitoring locations, monitoring dates, compliance calculation procedures, and copies of any permits, contracts, or other agreements with third parties to sample, analyze, report, or perform any other monitoring requirement. Each system in a combined distribution system (as discussed in section V.C) must develop and maintain its own monitoring plan.

To comply with the requirement for a monitoring plan, systems may develop a new plan or update the monitoring plan required under the Stage 1 DBPR (see § 141.132(f)). In either case, the system must follow the monitoring plan, which will be based on the IDSE report submitted to the State, modified by any changes required by the State.

Table V–5 summarizes proposed routine and reduced monitoring requirements for Stage 2B of today's rule for non-consecutive systems and for consecutive systems that also treat source water. Tables V–6 and V–7 summarize proposed routine and reduced Stage 2B monitoring requirements for consecutive systems that purchase all of their finished water year-round. The proposed reduced monitoring requirements are consistent with the approach taken in the Stage 1 DBPR.

TABLE V–5.—PROPOSED STAGE 2B ROUTINE AND REDUCED MONITORING REQUIREMENTS FOR NON-CONSECUTIVE SYSTEMS AND FOR CONSECUTIVE SYSTEMS THAT ALSO TREAT SOURCE WATER TO PRODUCE FINISHED WATER [1]

System size and source water type	Routine monitoring (per plant) [2]	Requirements to qualify for reduced monitoring	Reduced monitoring (per plant)	Trigger for returning to routine monitoring
Subpart H systems serving ≥10,000 people.	Four dual sample sets per quarter.	One year of completed routine monitoring and all TTHM and HAA5 LRAAs are no more than 0.040 mg/L and 0.030 mg/L, respectively, and TOC running annual average ≤4.0 mg/L.	Two dual sample sets per quarter.	TOC >4.0 mg/L as an RAA, or TTHM LRAA >0.040 mg/L or HAA5 LRAA >0.030 mg/L.
Subpart H systems serving 500 to 9,999 people.	Two dual sample sets per quarter [3].	One year of completed routine monitoring and all TTHM and HAA5 LRAAs are no more than 0.040 mg/L and 0.030 mg/L, respectively, and TOC running annual average ≤4.0 mg/L.	Two dual sample sets per year [4].	TOC >4.0 mg/L as an RAA, or Single Sample of TTHM >0.060 mg/L or HAA5 >0.045 mg/L.[5]
Subpart H systems serving <500 people.	One dual sample set per year [5 6].	Monitoring may not be reduced	NA	NA.
Ground water systems serving ≥10,000 people [7].	Two dual sample sets per quarter [3].	One year of completed routine monitoring and all TTHM and HAA5 LRAAs are no more than 0.040 mg/L and 0.030 mg/L, respectively.	Two dual sample sets per year [4].	Single Sample of TTHM >0.060 mg/L or HAA5 >0.045 mg/L.[5]
Ground water systems serving 500 to 9,999 people [7].	Two dual sample sets per year [3 5].	One year of completed routine monitoring and all TTHM and HAA5 LRAAs are no more than 0.040 mg/L and 0.030 mg/L, respectively.	Two dual samples every third year [4].	Single sample of TTHM >0.040 mg/L or HAA5 >0.030 mg/L.[5]
Ground water systems serving <500 people [7].	One dual sample set per year [5 6].	One year of completed routine monitoring and all TTHM and HAA5 LRAAs are no more than 0.040 mg/L and 0.030 mg/L, respectively.	Two dual samples every third year [4].	Single sample of TTHM >0.040 mg/L or HAA5 >0.030 mg/L [5]
Consecutive systems that also treat source water.	System must meet the routine and reduced monitoring requirements of a non-consecutive system with the same population and source water. Monitoring may be reduced to the level required of that non-consecutive system.			

[1] Samples must be taken during representative operating conditions. Quarterly samples must be taken approximately every 90 days.
[2] Systems will use the results of their IDSEs and Stage 1 DBPR compliance monitoring to recommend Stage 2B monitoring locations representative of high TTHM and HAA5 concentrations to the State in their IDSE reports. Systems must monitor at the recommended locations unless the State requires other locations.
[3] If site and quarter of highest individual TTHM and HAA5 measurement are the same, monitoring is only required at one location if State approves.
[4] If site and quarter of highest individual TTHM and HAA5 measurement are the same, monitoring is only required at one location.
[5] If any single sample of TTHM >0.080 mg/L or HAA5 >0.060 mg/L, system must go to increased monitoring of quarterly dual samples at each routine monitoring location and can return to routine monitoring when TTHM ≤0.060 mg/L and HAA5 ≤0.045 mg/L as LRAAs.
[6] If the site or month of highest TTHM is not the same as the site or month of highest HAA5, the system must monitor for TTHM at the location of the highest TTHM LRAA during the month of highest TTHM single measurement and for HAA5 at the location of the highest HAA5 LRAA during the month of highest HAA5 single measurement.
[7] Ground water systems are those not under the direct influence of surface water. For the purpose of determining the required number of samples, multiple wells drawing water from a single aquifer may, with State approval, be considered one treatment plant.

i. Subpart H systems serving 10,000 or more people.

Routine monitoring: Systems must take four dual sample sets (*i.e.*, a TTHM and an HAA5 sample must be taken at each sampling site) per treatment plant per quarter. Systems must monitor at locations recommended in the IDSE report, unless the State has required other locations. Most systems must take samples at each plant in the system as follows: One dual sample set at the existing Stage 1 DBPR average residence time monitoring location with the highest TTHM or HAA5 LRAA, one dual sample set at a point representative of the highest HAA5 levels, and two dual sample sets at points representative of the highest TTHM levels.

Systems must schedule monitoring so that one quarter's monitoring is conducted during the peak historical month for high TTHM concentration and the other quarterly monitoring is

conducted approximately every 90 days on a predetermined schedule included in the system's monitoring plan.

Reduced monitoring: Only systems with source water TOC ≤4.0 mg/L as an RAA that have completed at least one year of routine monitoring may qualify for reduced monitoring (*see* Table V–5). Systems that have a TTHM LRAA ≤0.040 mg/L and an HAA5 LRAA ≤0.030 mg/L at all sites, in addition to a source water TOC RAA ≤ 4.0 mg/L, may reduce the monitoring frequency for TTHM and HAA5 to two dual sample sets (one each at sites representative of the highest HAA5 and TTHM LRAAs) per treatment plant per quarter. Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the LRAA of all samples taken in the year is no more than 0.040 mg/L for TTHM and 0.030 mg/L for HAA5 or if source water TOC exceeds 4.0 mg/L as an RAA. Systems must revert to routine monitoring in the quarter immediately following any quarter in which the LRAA for any monitoring location exceeds 0.040 mg/L for TTHM or 0.030 mg/L for HAA5. Additionally, the State may return a system to routine monitoring at the State's discretion.

Compliance determination: A PWS is in compliance with Stage 2B when the TTHM and HAA5 LRAAs for each sample location, computed quarterly, are less than or equal to the Stage 2B MCLs of 0.080 mg/L and 0.060 mg/L, respectively. Otherwise, the system is out of compliance.

ii. Subpart H systems serving 500 to 9,999 people. Routine monitoring: Systems must monitor quarterly for each treatment plant by taking two dual sample sets, one each at sites representative of high HAA5 levels and high TTHM levels (as recommended in the IDSE report). However, if the State determines that the sites representative of the high TTHM and HAA5 levels are at the same location, the State may determine that the system is only required to monitor at one site per treatment plant.

Systems must conduct quarterly monitoring during the peak historical month for TTHM with quarterly samples taken approximately every 90 days on a predetermined schedule specified in the system's monitoring plan. All samples must be taken as dual sample sets (*i.e.*, a TTHM and an HAA5 sample must be taken at each site).

Reduced monitoring: To qualify for reduced monitoring, systems must meet certain prerequisites (*see* Table V–5). Systems eligible for reduced monitoring may reduce the monitoring frequency from quarterly to annually. Samples must be taken during the month(s) of peak historical TTHM and HAA5 levels at the same locations specified under routine monitoring. Systems that have their highest TTHM and HAA5 levels in the same month must take dual sample sets at both the high TTHM and high HAA5 sites. If the high months for TTHM and HAA5 are not the same, the system must take dual sample sets in both the high TTHM and high HAA5 months. Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the annual sample taken at each location is no more than 0.060 mg/L for TTHM and 0.045 mg/L for HAA5 or if source water TOC exceeds 4.0 mg/L as an RAA. Systems that do not meet these levels must revert to routine monitoring in the quarter immediately following the quarter in which the system exceeded 0.060 mg/L for TTHM or 0.045 mg/L for HAA5. Additionally, the State may return a system to routine monitoring at the State's discretion.

Compliance determination: A PWS is in compliance with Stage 2B when the LRAAs of each sample location, computed quarterly, are less than or equal to the MCLs. Otherwise, the system is out of compliance. If the annual sample taken under reduced monitoring exceeds the MCL, the system must resume quarterly monitoring but is not immediately in violation of the MCL. The system is out of compliance if the LRAA of the quarterly sample for the past four quarter exceeds the MCL.

iii. Subpart H systems serving fewer than 500 people. Routine monitoring: Systems are required to sample annually for each treatment plant at the location with high TTHM and HAA5 values during the month of peak historical TTHM levels. The system must take one dual sample set at the site representative of the high HAA5 and TTHM levels (at the Stage 1 DBPR monitoring site or as recommended in the IDSE report), unless the State determines that the highest TTHM site and the highest HAA5 site are not at the same location or are not during the same quarter. If the State determines that the highest TTHM and highest HAA5 do not occur in the same location, the system is required to take two samples, an HAA5 sample at the site representative of the high HAA5 levels and a TTHM sample at the site representative the high TTHM levels. If the State determines that the highest TTHM and highest HAA5 do not occur in the same quarter, the systems is required to take one sample in the high TTHM quarter and one sample in the high HAA5 quarter. If the annual sample exceeds the MCL for either TTHM or HAA5, the system must monitor quarterly at the previously determined monitoring locations.

Reduced monitoring: These systems may not reduce monitoring to less frequently than annually. Systems on increased (quarterly) monitoring may return to routine monitoring if the LRAAs of quarterly samples are no more than 0.060 mg/L for TTHM and 0.045 mg/L for HAA5.

Compliance determination: A PWS is in compliance when the annual sample (or LRAA of quarterly samples, if increased or additional monitoring is conducted) is less than or equal to the MCL. If the annual sample exceeds the MCL, the system must conduct increased (quarterly) monitoring but is not immediately in violation of the MCL. The system is out of compliance if the LRAA of the quarterly samples for the past four quarters exceeds the MCL.

iv. Ground water systems serving 10,000 or more people. Routine monitoring: Systems are required to monitor quarterly for each treatment plant in the system by taking two dual sample sets, one each at sites representative of high HAA5 levels and high TTHM levels (as recommended in the IDSE report). However, if the State determines that the sites representative of the high TTHM and HAA5 levels are the same, the State may determine that the system only has to monitor at one site per treatment plant. One quarterly sample must be taken during the peak historical month for TTHM, with subsequent quarterly samples taken approximately every 90 days.

Reduced monitoring: To qualify for reduced monitoring, systems must meet certain requirements (*see* Table V–5). Systems eligible for reduced monitoring may reduce the monitoring frequency from quarterly to annually. Samples must be taken during the month(s) of peak historical TTHM and HAA5 levels at the same locations specified under routine monitoring. Systems that have their highest TTHM and HAA5 levels in the same quarter must take dual sample sets at both the high TTHM and high HAA5 sites. If the quarter for high TTHM and high HAA5 are not the same, the system must take dual sample sets in both the high TTHM and high HAA5 quarters. Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the annual sample taken at each location is no more than 0.060 mg/L for TTHM and 0.045 mg/L for HAA5. Systems that do not meet these levels must revert to routine monitoring in the quarter immediately following the quarter in which the system exceeded 0.060 mg/L for TTHM or 0.045 mg/L for HAA5. Additionally, the State may return a

system to routine monitoring at the State's discretion.

Compliance determination: A PWS is in compliance with Stage 2B when the locational running annual average of each sample location, computed quarterly, is less than or equal to the MCL. Otherwise, the system is out of compliance. If the annual sample exceeds the MCL, the system must conduct increased (quarterly) monitoring but is not immediately in violation of the MCL. The system is out of compliance if the LRAA of the quarterly sample for the past four quarter exceeds the MCL.

v. Ground water systems serving fewer than 10,000 people. Routine monitoring: Systems serving 500 to 9,999 people are required to take two dual sample sets annually, one each at sites representative of high HAA5 levels and high TTHM levels (as recommended in the IDSE report). However, if the State determines that the sites representative of the high TTHM and HAA5 levels are the same, the State may allow the system to monitor at only one site per treatment plant. If the State makes a determination that high TTHM and high HAA5 occur in different quarters, the system must monitor accordingly. If the annual sample exceeds the MCL for either TTHM or HAA5, the system must monitor quarterly at the previously determined monitoring locations.

Systems serving fewer than 500 people are required to take one dual sample set at the site representative of both high HAA5 and TTHM levels, unless the State determines that the high TTHM site and the high HAA5 site are not at the same location. If the State makes this determination, the system is required to take samples at two locations, an HAA5 sample at the site representative of the high HAA5 levels and a TTHM sample at the site representative of the high TTHM levels. If the State makes a determination that high TTHM and high HAA5 occur in different quarters, the system must monitor accordingly. If the annual sample exceeds the MCL for either TTHM or HAA5, the system must monitor quarterly at the previously determined monitoring locations.

Reduced monitoring: To qualify for reduced monitoring, systems must meet certain prerequisites (*see* Table V–5). Systems eligible for reduced monitoring may reduce the monitoring frequency for TTHM and HAA5 to every third year. Systems are required to take two water samples, at sites representative of high HAA5 and TTHM levels (as discussed under routine monitoring) during the month of peak TTHM levels. Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the sample taken every third year is no more than 0.040 mg/L for TTHM and 0.030 mg/L for HAA5. Systems that do not meet these levels must resume routine annual monitoring until their annual average is no more than 0.040 mg/L for TTHM and 0.030 mg/L for HAA5.

Compliance determination: A PWS is in compliance when the annual sample (or LRAA of quarterly samples, if increased or additional monitoring is conducted) is less than or equal to the MCL. If the annual sample exceeds the MCL, the system must conduct increased (quarterly) monitoring but is not immediately in violation of the MCL. The system is out of compliance if the LRAA of the quarterly samples for the past four quarters exceeds the MCL.

vi. *Consecutive systems.* Routine monitoring: Monitoring requirements are determined by whether the consecutive system purchases all of its finished water year-round or also treats source water, along with the population served and source water type of the wholesale system (unless the consecutive system also has a surface water or ground water under the direct influence of surface water (GWUDI) source and the wholesale system is only ground water, in which case the consecutive system is classified as a subpart H system). Section V.C. of today's document provides a more detailed discussion of consecutive system issues.

As noted earlier, for consecutive systems that purchase all their finished water year-round, EPA is proposing population-based monitoring. The proposed number of monitoring locations is based on the source water type of the wholesale system and consecutive system population. Proposed Stage 2B compliance monitoring requirements for consecutive systems that purchase all their finished water are contained in Table V–6. Consecutive systems that also treat source water to produce finished water must monitor at the same locations and same frequency as a non-consecutive system with the wholesale system's source water type and the consecutive system's population.

TABLE V–6.—PROPOSED POPULATION-BASED ROUTINE MONITORING ROUTINE FREQUENCIES AND LOCATIONS UNDER STAGE 2B FOR CONSECUTIVE SYSTEMS THAT PURCHASE ALL THEIR FINISHED WATER YEAR-ROUND

Source water type	Population size category	Monitoring frequency [1]	Distribution system sample location [2]			
			Total	Highest TTHM locations	Highest HAA5 locations	Existing stage 1 compliance locations [3]
Subpart H	0–499	per year	2 [4]	1	1	
	500–4,999	per quarter	2 [4]	1	1	
	5,000–9,999	per quarter	2	1	1	
	10,000–24,999	per quarter	4	2	1	1
	25,000–49,999	per quarter	6	3	2	1
	50,000–99,999	per quarter	8	4	2	2
	100,000–499,999	per quarter	12	6	3	3
	500,000–1,499,000	per quarter	16	8	4	4
	1,500,000–4,999,999	per quarter	20	10	5	5
	≥5,000,000	per quarter	24	12	6	6
Ground Water	0–499	per year	2 [4]	1	1	
	500–9,999	per year	2	1	1	
	10,000–99,999	per quarter	4	2	1	1
	100,000–499,999	per quarter	6	3	2	1
	≥500,000	per quarter	8	4	2	2

[1] All systems must take at least one dual sample set during month of highest DBP concentrations. Systems on quarterly monitoring must take dual sample sets approximately every 90 days.

[2] Locations based on system recommendations for Stage 2B monitoring locations in IDSE report to the State, unless State requires different or additional locations. Locations should be distributed through distribution system to the extent possible.

[3] Alternate between highest HAA5 LRAA and highest TTHM LRAA locations among the existing Stage 1 compliance locations. If the number of existing Stage 1 compliance locations is fewer than the specified number for Stage 2B, alternate between highest HAA5 LRAA locations and highest TTHM LRAA locations from the IDSE.

[4] System is required to take individual TTHM and HAA5 samples at the locations with the highest TTHM and HAA5 concentrations, respectively. Only one location with a dual sample set per monitoring period is needed if highest TTHM and HAA5 concentrations occur at the same location.

Reduced monitoring: Consecutive systems can qualify for reduced monitoring if the LRAA at each location is ≤0.040 mg/L for TTHM and ≤0.030 mg/L for HAA5 based on at least one year of monitoring at Stage 2B locations. Consecutive systems that purchase all of their finished water year-round may reduce their monitoring as specified in Table V–7. Consecutive systems that also treat source water to produce finished must conduct reduced monitoring at the same locations and same frequency as a non-consecutive system with the wholesale system's source water type and the consecutive system's population.

TABLE V–7.—REDUCED MONITORING FREQUENCY FOR CONSECUTIVE SYSTEMS THAT BUY ALL THEIR WATER

Population served	Reduced monitoring frequency and location
Subpart H systems	
<500	Monitoring may not be reduced.
500 to 4,999	1 TTHM and 1 HAA5 sample per year at different locations or during different quarters if the highest TTHM and HAA5 occurred at different locations or different quarters or 1 dual sample per year if the highest TTHM and HAA5 occurred at the same location and quarter.
5,000 to 9,999	2 dual sample sets per year; one at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred, one at the location with the highest HAA5 single measurement during the quarter that the highest single HAA5 measurement occurred.
10,000 to 24,999	2 dual sample sets per quarter at the locations with the highest TTHM and highest HAA5 LRAAs.
25,000 to 49,999	2 dual sample sets per quarter at the locations with the highest TTHM and highest HAA5 LRAAs.
50,000 to 99,000	4 dual sample sets per quarter at the locations with the two highest TTHM and two highest HAA5 LRAAs.
100,000 to 499,999	4 dual sample sets per quarter at the locations with the two highest TTHM and two highest HAA5 LRAAs.
500,000 to 1,499,999	6 dual sample sets per quarter at the locations with the three highest TTHM and three highest HAA5 LRAAs.
1,500,000 to 4,999,999	6 dual sample sets per quarter at the locations with the three highest TTHM and three highest HAA5 LRAAs.
>=5,000,000	8 dual sample sets per quarter at the locations with the four highest TTHM and four highest HAA5 LRAAs.
Ground water systems	
<500	1 TTHM and 1 HAA5 sample every third year at different locations or during different quarters if the highest TTHM and HAA5 occurred at different locations or different quarters or 1 dual sample every third year if the highest TTHM and HAA5 occurred at the same location and quarter.
500 to 9,999	1 TTHM and 1 HAA5 sample every year at different locations or during different quarters if the highest TTHM and HAA5 occurred at different locations or different quarters or 1 dual sample every year if the highest TTHM and HAA5 occurred at the same location and quarter.
10,000 to 99,000	2 dual sample sets per year; one at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred and one at the location with the highest HAA5 single measurement during the quarter that the highest single HAA5 measurement occurred.
100,000 to 1,499,999	2 dual sample sets per quarter; at the locations with the highest TTHM and highest HAA5 LRAAs.
≥1,500,000	4 dual sample sets per quarter; at the locations with the two highest TTHM and two highest HAA5 LRAAs.

Systems may remain on reduced monitoring as long as the TTHM LRAA ≤0.040 mg/L and the HAA5 LRAA ≤0.030 mg/L at each monitoring location for systems with quarterly reduced monitoring. If the LRAA at any location exceeds either 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 or if the source water annual average TOC level, before any treatment, exceeds 4.0 mg/L at any of the system's treatment plants treating surface water or ground water under the direct influence of surface water, the system must resume routine monitoring. For systems with annual or less frequent reduced monitoring, systems may remain on reduced monitoring as long as each TTHM sample ≤0.060 mg/L and each HAA5 sample ≤0.045 mg/L. If the annual sample at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5, or if the source water annual average TOC level, before any treatment, exceeds 4.0 mg/L at any treatment plant treating surface water or ground water under the direct influence of surface water, the system must resume routine monitoring.

Compliance determination: A PWS is in compliance when the annual sample or LRAA of quarterly samples is less than or equal to the MCLs. If an annual sample exceeds the MCL, the system must conduct increased (quarterly) monitoring but is not immediately in violation of the MCL. The system is out of compliance if the LRAA of the quarterly samples for the past four quarters exceeds the MCL.

2. How Was This Proposal Developed?

The proposed monitoring requirements for the IDSE and Stage 2B primarily follow a plant-based approach that was adopted from the 1979 TTHM Rule and the Stage 1 DBPR. This approach includes differences in monitoring frequency between surface water and ground water sources, and between large and small systems. However, the proposed monitoring requirements differ from Stage 1 DBPR requirements in certain areas, including (a) sampling intervals for quarterly monitoring, (b) reduced monitoring frequency, (c) different sampling locations by disinfectant type (for the IDSE), and (d) population-based monitoring requirements for certain consecutive systems. This subsection

presents the basis for these requirements.

a. *Sampling intervals for quarterly monitoring.* Today's proposal requires systems conducting routine quarterly monitoring to sample approximately every 90 days. This provision modifies the approach used in the 1979 TTHM rule and the Stage 1 DBPR, which requires certain systems to conduct monitoring based on calendar quarters.

When systems are required to monitor based on calendar quarters, systems can choose to cluster samples during times of the year when DBP levels are lower (DBPs tend to form more slowly in colder water temperatures). For example, a system could sample in December (at the end of the fourth quarter) and again in January (at the beginning of the first quarter) when the water is the coldest and sample in April (at the beginning of the second quarter) and September (at the end of the third quarter) at either end of the hot summer months.

To address the concern with systems not sampling during months with the highest DBP levels, EPA is proposing to require systems to monitor during the month of highest historical DBP concentrations and require that systems monitor approximately every 90 days. EPA believes that this new monitoring strategy will improve public health protection because systems will be required to monitor when high DBP levels are expected, and the LRAA will better reflect actual exposure during the year.

b. *Reduced monitoring frequency.* Today's proposal contains provisions allowing reduced routine monitoring when certain criteria are fulfilled (shown in Table V–5 and V–7). EPA believes that more stringent standards are necessary to ensure public health protection when systems reduce the frequency of their DBP monitoring. Under the reduced monitoring provisions, systems must collect samples during the months of highest DBP occurrence. For systems sampling annually under the reduced monitoring provisions, EPA believes that public health protection would likely be ensured throughout the year if the high values are known to be below 0.060 mg/L for TTHM and 0.045 mg/L for HAA5. Systems monitoring every three years must maintain single samples under 0.040 mg/L for TTHM and 0.030 mg/L for HAA5 to ensure adequate public health protection over the course of the three years.

c. *Different IDSE sampling locations by disinfectant type.* Today's proposal contains different requirements for IDSE monitoring locations based on the disinfectant residual used in the distribution system. Systems that use chloramines are required to select more near-entry point monitoring sites for the IDSE than chlorinated systems of similar size and source water type. This is due to differences in DBP formation under chloraminated and chlorinated conditions. Chloramine residuals are more stable than chlorine residuals and do not react as readily with organic compounds in the water. Based on evaluation of Information Collection Rule data, DBP concentrations in chloraminated systems vary less throughout the distribution system than in chlorinated systems. HAA5, in particular, can peak at or near the entry point to the distribution system in a chloraminated system (USEPA 2003o).

d. *Population-based monitoring requirements for certain consecutive systems.* While the Advisory Committee recommended basic principles for how consecutive systems should be regulated, it did not recommend how EPA should explicitly address some of the unique situations that pertain to consecutive systems. In this regard, consecutive systems that purchase all of their finished water year-round are different than other systems in that they do not have a treatment plant. Rather, these systems often receive water from multiple wholesale systems or through multiple consecutive system entry points on a seasonal or intermittent basis. Because a plant-based monitoring approach (which counts treated water distribution system entry points from different entities as plants) would be very difficult to implement for consecutive systems that purchase all of their finished water year-round, EPA is proposing a population-based approach for such systems.

Under a population-based approach, the frequency of monitoring is based on the population served and remains the same regardless of how many entities are providing water to the consecutive system at different times of the year. The population categories and associated monitoring frequencies in Tables V–4 and V–6 for IDSE and Stage 2B routine monitoring reflect EPA's consideration that distribution system complexity generally increases as the population served grows. Increasing distribution system complexity warrants more monitoring to represent DBP occurrence.

EPA developed the proposed population-based monitoring requirements in accordance with certain guidelines. These are stated as follows:

—The sampling frequency for surface water systems should be greater than for ground water systems. The basis for this is that, in general, systems using surface water or mixed source water supplies are likely to experience higher and more variable DBP occurrence over time than systems using ground water exclusively.

—Smaller systems should be allowed to monitor less frequently per location than larger systems because their distribution systems are generally less complex and monitoring costs on a per capita basis are much higher.

—For systems using surface water, the ratio of IDSE sample locations to the number of routine sample locations required for Stage 2B should be approximately 2:1 (consistent with Advisory Committee recommendations for plant-based monitoring). IDSE sampling is intended to identify distribution system locations with high DBP levels and should, therefore, be more thorough than routine monitoring.

—Because ground water systems have much less variable DBP levels within the distribution system than surface water systems (see section IV), a smaller number of additional IDSE monitoring locations is warranted.

—Distribution system sampling locations should be approximately consistent with the proposed plant-based approach as recommended by the Advisory Committee. This will capture the locations with the high TTHM and HAA5 LRAAs identified in the IDSE, but also include Stage 1 compliance locations with high TTHM and HAA5 for historical tracking.

Consistent with the first two guidelines, the proposed population-based monitoring requirements maintain the same monitoring frequency per sample location as proposed under the plant-based approach. The following subsection provides further discussion of the population-based approach as it might apply to all systems.

3. Request For Comment

EPA is requesting comments on the proposed monitoring requirements. This subsection begins with a list of specific questions related to the proposed requirements for IDSE and Stage 2B monitoring. This is followed by a discussion of issues associated with plant-based monitoring requirements and a request for comment on potential approaches to address these issues, including the extension of population-based monitoring requirements to all systems under the Stage 2 DBPR.

a. *Proposed IDSE and Stage 2B monitoring requirements.* EPA is

requesting comment on a number of specific aspects of the proposed monitoring requirements.

—Should EPA require all systems that are on reduced monitoring to revert to routine monitoring during the IDSE monitoring period to allow for more data to be evaluated in the IDSE report to better select Stage 2B monitoring locations? Or should EPA require a system to be on routine monitoring during the IDSE monitoring period in order to be eligible for an IDSE waiver? What limitations, if any, should EPA put on system eligibility for an IDSE waiver?

—Should EPA require different IDSE monitoring locations for subpart H systems based on the residual disinfectant (chlorine or chloramines) in light of the possible difficulties for implementation and data management? Should EPA specify monitoring locations in the rule language for samples intended to represent exposure for people in high-rise buildings? Should monitoring location selection be addressed in guidance? Where should these locations be so that they are truly representative of the levels of DBPs in water actually being consumed in these kinds of structures?

—Is a population-based monitoring approach (instead of a plant-based monitoring approach) for consecutive systems that purchase all of their finished water year-round appropriate and, if so, is the population-based approach proposed today adequate?

EPA solicits comment on the significance of monitoring and implementation issues such as common aquifer determinations, consecutive system entry point determinations, seasonal plants, and monitoring inequities, and whether the proposed monitoring requirements should be modified. EPA also solicits comment on modifying the proposed monitoring requirements to address these issues, in part, with provisions such as the following:

—Should EPA set a limit on the maximum number of IDSE and routine monitoring samples that could be required? Should this limit be different for systems using ground water or surface water or mixed systems? For different system size categories? What rationale should be used to specify maximum sample numbers?

—Should a provision be included that would allow States to reduce the sampling frequency, beyond those currently proposed (*i.e.*, common aquifer determinations and low DBP levels)? If so, should specific criteria for systems to qualify for State approval of reduced monitoring be specified in the rule?

—What, if any, criteria should be set by which systems with very large distribution systems but few plants would be required to conduct additional IDSE or routine monitoring, beyond that currently proposed?

—For subpart H mixed systems, should States be given discretion to reduce routine compliance monitoring samples intended to represent ground water sources, since such sources typically have lower precursor levels and produce lower DBP concentrations?

—Should EPA allow or require systems to reallocate plant-based IDSE monitoring locations from small plants to large plants? From plants with better water quality (based on expected lower DBP formation) to poorer water quality? What criteria should be used?

b. *Plant-based vs. population-based monitoring requirements.* The proposed monitoring requirements incorporate a plant-based approach for all systems other than consecutive systems that purchase all of their finished water year-round. The plant-based approach was adopted from the 1979 TTHM Rule and the Stage 1 DBPR and derives from the assumption that as systems increase in size, they will tend to have more plants (with different sources and treatment) and increased complexity. This warrants increased monitoring to represent DBP occurrence in the distribution system.

EPA has identified a number of issues related to the use of a plant-based monitoring approach under the Stage 2 DBPR. The following discussion presents these issues and solicits comment on approaches to address them, including the use of population-based monitoring requirements.

i. *Issues with plant-based monitoring requirements.* One issue with a plant-based monitoring approach is that it can result in disproportionate monitoring requirements for systems serving the same number of people. This occurs because the required number of sampling sites increases with the number of plants that feed disinfected water into a distribution system. Consequently, some systems, depending upon their size, the number of treatment plants, and the nature of their distribution system, will be required to collect relatively large or small numbers of TTHM and HAA5 samples relative to their population served.

Table V–8 reflects EPA estimates of the number of plants per system by system size category for systems using ground water and subpart H systems. Subpart H systems include systems that use ground water as a source because under the proposal, ground water plants in subpart H systems are treated as surface water plants for purposes of determining monitoring requirements. While the proposed plant-based requirements distinguish sampling requirements by three systems sizes (<500 people, 500–9999 people, and 10,000 or more people), Table V–8 includes additional size categories to reflect the potential inequities in sampling requirements among different-sized systems.

TABLE V–8.—NUMBER OF TREATMENT PLANTS PER SYSTEM (BASED ON DATA FROM 1995 CWSS (1))

Source water type	Population served	No. of systems in database	No. of treatment plants per system					
			10th percentile	Median	Mean	90th percentile	95th percentile	Maximum
Subpart H	0–499	124	1	1	1.4	2	3	5
	500–4,999	146	1	1	1.3	2	3	6
	5,000–9,999	64	1	1	1.7	3	4	6
	10,000–24,999	59	1	1	2.0	3	4	18
	25,000–49,999	46	1	1	2.2	4	6	9
	50,000–99,999	76	1	2	3.4	6	12	34
	100,000–499,999	51	1	2	3.0	5	10	21
	≥500,000	23	2	4	5.8	10	13	56
Ground Water	0–499	181	1	1	1.4	3	4	11
	500–9,999	332	1	1	1.8	3	4	13

TABLE V–8.—NUMBER OF TREATMENT PLANTS PER SYSTEM (BASED ON DATA FROM 1995 CWSS (1))—Continued

Source water type	Population served	No. of systems in database	No. of treatment plants per system					
			10th percentile	Median	Mean	90th percentile	95th percentile	Maximum
	10,000–99,999	128	1	4	4.2	9	11	18
	≥100,000	21	1	3	9.9	31	32	33

(1) Results from analysis of 1995 CWSS data (Question Q18). The analysis uses a statistical bootstrapping approach to generate the number of plants per system. Details of this analysis are described in the 2002 revisions to the Model Systems Report [to be published]. The maximums reflect the maximum number of plants per system among the respondents to the 1995 CWSS. Since the 1995 CWSS database only reflects a fraction of all the systems in the respective size categories, some systems are likely to have a higher number of plants per system than the maximums listed in this table.

Noteworthy in Table V–8 are the wide ranges of number of plants per system in the various size categories for both ground water and surface water systems and, consequently, the wide range of potential monitoring implications. Since the number of treatment plants directly influences the number of samples required, systems serving the same number of people may have more than a 10-fold difference in required sampling, depending on the numbers of plants in their systems. For example, Table V–8 indicates that for ground water systems serving at least 10,000 people, at least 10% of the systems had only one treatment plant, while 10% (90th percentile) had 10 or more treatment plants.

While Table V–8 does not take into account factors that may reduce monitoring requirements, such as common aquifer determinations, EPA believes these data indicate that DBP sampling requirements based on the number of water treatment plants per system may be excessive for many systems. This is particularly the case for those systems with many ground water plants, since their DBP levels are often low and relatively stable.

Conversely, for other systems, such as large surface water systems with one plant, plant-based monitoring requirements may not require enough samples to fairly represent DBP occurrence in the distribution system. For example, under the plant-based approach, a system with only one plant serving 100,000—499,000 people would have the same sampling requirements as a system with one plant serving 11,000 people. The larger of these two systems is likely to have much more pipe length and other complex factors influencing DBP formation (such as number of storage tanks or booster chlorination points in the distribution system). Also, systems with multiple plants must take the same number of samples per plant, even if one plant provides a much higher percentage of the water than another.

Another issue with plant-based monitoring requirements is when plants or consecutive system entry points are operated seasonally or intermittently. A monitoring location that represents a plant or entry point during a monitoring period when it is in operation will not be representative when that plant or entry point it is not in operation.

A third issue is requirements for consecutive systems. For consecutive systems that also treat source water to produce finished water, each consecutive system entry point is considered a treatment plant for the purpose of determining monitoring requirements, except when the State allows multiple entry points to be treated as a single plant (see section V.C. for further discussion). Each entry point is treated as a separate plant to recognize different source waters and treatment (resulting in different DBP levels) from the wholesale system(s) and the treatment plants(s) operated by the consecutive system. However, under this plant-based approach, State determinations of monitoring requirements for consecutive systems will be complicated, especially in large combined distribution systems with many connections between systems.

ii. Approaches to addressing issues with plant-based monitoring. EPA is requesting comment on two approaches to address the issues with plant-based monitoring requirements described in this subsection. One approach is to keep the proposed plant-based monitoring approach and add new provisions to address specific concerns. Another approach is to base monitoring requirements on population served in lieu of the number of water treatment plants per system. The following paragraphs describe each approach.

EPA could maintain a plant-based monitoring approach and try to address the related issues described in this subsection through modifying the proposed monitoring requirements with provisions like the following:

—Set a limit on the maximum number of IDSE and routine monitoring samples that could be required. EPA believes that this limit should be different for systems using ground water or surface water or mixed systems and for different system size categories. However, the Agency has not developed a rationale to specify maximum sample numbers for specific system categories.

—Include a provision that would allow States to reduce the required number of samples for reasons other than those currently proposed (*i.e.*, common aquifer determinations and low DBP levels). EPA would have to develop specific criteria in the rule for systems to qualify for State approval of reduced monitoring. For example, in subpart H mixed systems, States could be given discretion to reduce routine compliance monitoring for ground water sources, since such sources typically have lower DBP concentrations.

—Develop criteria by which systems with very large distribution systems but with few plants would be required to conduct additional IDSE or routine monitoring in order to better characterize DBP exposure throughout the distribution system.

These provisions would allow for some issues to be addressed, but would make implementation complex and could add a significant burden to States.

An alternative approach to addressing the issues with plant-based monitoring requirements is to apply population-based monitoring requirements to all systems. Under a population-based monitoring approach, the total system population served and the source water type would determine the number of IDSE and routine monitoring samples taken. Monitoring requirements would not be based on the number of plants per system or consecutive system entry points. States would not be required to make common aquifer determinations or address whether plants are combined into a single pipe prior to entering the distribution system.

Proposed population-based monitoring requirements for

consecutive systems that purchase all their finished water year-round are shown in Tables V–4, V–6, and V–7. Also, the proposed rule language in subparts U and V contains requirements for population-based monitoring similar to what might be required for all systems. EPA believes that through using a broader array of system size categories than under the plant-based approach, population-based monitoring could result in an equitable proportioning of DBP sampling requirements. Tables V–9 and V–10 compare the proposed numbers of sampling locations per system under a population-based approach with a plant-based approach, using the median and mean number of plants per system given in Table V–8 for each of the size categories. For surface water systems, the median provides a better indicator of the typical number of required sampling locations under the plant-based approach because it is much less sensitive to systems with a very large number of plants.

TABLE V–9.—COMPARISON OF MONITORING LOCATIONS PER SYSTEM UNDER IDSE FOR PLANT-BASED AND POPULATION-BASED APPROACHES

Source water type	Population size category	Number of sampling periods	Plant-based			Population-based
			Number of monitoring locations per plant [1]	Number of monitoring locations per system		Number of monitoring locations per system [3]
				Based on median number of plants per system [2]	Based on mean number of plants per system [2]	
Subpart H	0–499	2	2	2	3	2
	500–4,999	4	2	2	3	2
	5,000–9,999	4	2	2	3	4
	10,000–24,999	6	8	8	16	8
	25,000–49,999	6	8	8	18	12
	50,000–99,999	6	8	16	27	16
	100,000–499,999	6	8	16	24	24
	500,000–1,499,000					32
	1,500,000–4,999,999	6	8	32	46	40
	≥5,000,000					48
Ground Water	0–499	2	2	2	2	2
	500–9,999	2	2	2	4	2
	10,000–99,999	4	2	8	9	6
	100,000–499,999	4	2	6	20	8
	≥500,000					12

[1] From Table V–5.
[2] Calculated from the number of locations per plant multiplied by number of plants per system (Table V–8).
[3] From Table V–4.

TABLE V–10.—COMPARISON OF ROUTINE MONITORING LOCATIONS PER SYSTEM UNDER STAGE 2B FOR PLANT-BASED AND POPULATION-BASED APPROACHES

Source water type	Population size category	Frequency of monitoring	Plant-based			Population-based
			Number of monitoring locations per plant [1]	Number of monitoring locations per system		Number of monitoring locations per system [3]
				Based on median number of plants per system [2]	Based on mean number of plants per system [2]	
Subpart H	0–499	1	1	1	1	2
	500–4,999	4	2	2	3	2
	5,000–9,999	4	2	2	3	2
	10,000–24,999	4	4	4	8	4
	25,000–49,999	4	4	4	9	6
	50,000–99,999	4	4	8	14	8
	100,000–499,999	4	4	8	12	12
	500,000–1,499,000					16
	1,500,000–4,999,999	4	4	16	23	20
	≥5,000,000					24
Ground Water	0–499	1	1	1	1	2
	500–9,999	1	2	2	4	2
	10,000–99,999	4	2	8	9	4
	100,000–499,999	4	2	6	20	6
	≥500,000					8

[1] From Table V–5.
[2] Calculated from the number of locations per plant multiplied by number of plants per system (Table V–8).
[3] From Table V–6.

Under the population-based approach, the number of required sampling locations for systems of different size and source water type approximates the number of sampling locations that would be required for the majority of systems under the plant-based approach. However, systems in the tail ends of the distribution of number of plants per system would be required to take more or fewer samples than under the plant-based approach. EPA used the median number of plants in a given size category as the primary basis for establishing the number of monitoring locations for the population-based approach.

EPA adjusted the number of sampling locations for systems in population sizes 25,000 to 49,999, 100,000–499,999, and greater than 1,500,000 to provide a more even upward trend in proportion to population increase. Consistent with the plant-based approach, ground water systems serving 10,000 people or greater would be required to sample at approximately ⅓ to ½ the frequency required for surface water systems under the population-based approach.

EPA suggests that the monitoring frequencies for the IDSE and Stage 2B compliance proposed for consecutive systems that purchase all of their finished water year-round (as presented in Tables V–4 and V–6) are appropriate for all systems if a population-based approach were used in lieu of a plant-based approach in the final rule. EPA believes that the population-based approach would ensure more equal and rational monitoring requirements among systems serving similar populations than the plant-based approach does, while providing generally improved representation of DBP occurrence throughout the distribution system. Such an approach would simplify implementation and reduce transactional costs to States by facilitating determination of the number of sampling locations.

To further evaluate the potential implications of monitoring under the population-based approach, EPA has prepared an economic analysis addressing monitoring impacts using the population-based approach (*Economic Analysis for the Stage 2 DBPR,* EPA 2003i) and guidance on how plant-based monitoring requirements would be affected if a population-based approach were used instead (*Draft IDSE Guidance Manual,* EPA 2003j).

EPA requests comments on alternative DBP monitoring requirements that are population-based versus plant-based; specifically on the merits of a population-based monitoring approach for all systems for the purpose of addressing the issues raised in this section. Specifically:

—Should alternative system size categories be specified under the suggested population-based approach?
—What potential issues might be unique for a population-based monitoring approach and how might they be addressed?
—Should alternative numbers of monitoring locations or frequencies be required in the IDSE or for Stage 2B monitoring?
—Are reduced monitoring requirements adequate to ensure continued protection relative to the MCL?
—What are the transition costs and issues associated with moving from a plant-based to a population based approach and how might they be addressed?

J. Compliance Schedules

1. What is EPA Proposing?

Today's proposed rule establishes compliance deadlines for public water systems to implement the requirements in this rulemaking. EPA is proposing a phased strategy for MCLs and simultaneous compliance with the LT2ESWTR consistent with the recommendation of the M-DBP Advisory Committee and to comply with SDWA requirements for risk balancing. Central to the determination of these deadlines is the principle of simultaneous compliance between the Stage 2 DBPR and the LT2ESWTR, which will ensure continued microbial protection as systems implement changes to decrease DBP levels and minimize risk-risk tradeoffs.

IDSE schedule. Subpart H and ground water systems covered by today's proposed rule that serve a population of 10,000 or more must submit the results of their IDSE to the primacy agency two years after rule promulgation. In addition, wholesale or consecutive systems serving fewer than 10,000 that are part of a combined distribution system with at least one system serving ≥10,000 must meet this same schedule. These systems must begin IDSE monitoring early enough to collect and analyze 12 months of data and prepare an IDSE report, which includes recommendations for Stage 2B monitoring locations (see section V.H). Subpart H and ground water systems covered by today's proposed rule that serve a population of fewer than 10,000 (except those noted before) must submit the results of their IDSE to the primacy agency four years after rule promulgation. These systems must begin IDSE monitoring early enough to collect and analyze the data and prepare the IDSE report.

Stage 2A schedule. All systems must comply with the Stage 2A MCLs for TTHM and HAA5 three years after rule promulgation.

Stage 2B schedule. Systems required to submit an IDSE report due two years after the rule is promulgated must comply with Stage 2B six years after rule promulgation. Subpart H systems required to submit IDSE reports four years after rule promulgation and required to do *Cryptosporidium* monitoring under the LT2ESWTR must comply with Stage 2B 8.5 years after rule promulgation. Small systems not required to *Cryptosporidium* monitoring must be in compliance with Stage 2B 7.5 years after rule promulgation. Figure V–2 contains several examples of how to determine IDSE and Stage 2B compliance dates.

FIGURE V–2. SCHEDULE EXAMPLES

—Wholesale system (pop. 64,000) with three consecutive systems (pops. 21,000; 15,000; 5,000):
  —IDSE report due for all systems two years after promulgation since wholesale system serves at least 10,000
  —Stage 2B compliance beginning six years after promulgation for all systems
—Wholesale system (pop. 4,000) with three consecutive systems (pops. 21,000; 5,000; 5,000):
  —IDSE report due for all systems two years after promulgation since one consecutive system in combined distribution system serves at least 10,000
  —Stage 2B compliance beginning six years after promulgation for all systems
—Wholesale system (pop. 4,000) with three consecutive systems (pops. 8,000; 5,000; 5,000):
  —IDSE report due for all systems four years after promulgation since no system in combined distribution system exceeds 10,000 (even though total population exceeds 10,000)
  —Stage 2B compliance beginning 7.5 years after promulgation if no *Cryptosporidium* monitoring under the LT2ESWTR is required or beginning 8.5 years after promulgation if *Cryptosporidium* monitoring under the LT2ESWTR is required

2. How Did EPA Develop This Proposal?

EPA is proposing provisions for simultaneous rule compliance with the LT2ESWTR to maintain a balance between DBP and microbial risks. Simultaneous compliance was mandated by the 1996 SDWA Amendments which require that EPA ''minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants, the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level'' (Sec. 1412(b)(5)(B)(i)).

If systems were required to comply with the Stage 2 DBPR prior to the LT2ESWTR, systems could lower their disinfectant dose or switch to a less effective disinfectant in an attempt to decrease DBP levels. This practice could leave segments of the population exposed to greater microbial risks. Therefore, simultaneous compliance was a consensus recommendation of the Stage 2 M-DBP Advisory Committee to ensure that systems would not compromise microbial protection while attempting to meet more stringent DBP requirements.

The Advisory Committee supported the Initial Distribution System Evaluation, as discussed in section V.H, and EPA is proposing an IDSE schedule consistent with the Advisory Committee's recommendations, in which systems are required to submit their IDSE reports to the State either two or to four years following rule promulgation. The Advisory Committee recommended this to allow enough time for the State to review (and revise, if necessary) systems' recommendations for Stage 2B monitoring locations and to allow systems three years after completion of the State review to comply with Stage 2B MCLs as LRAAs at Stage 2B monitoring locations.

This schedule requires systems serving ≥10,000 people and smaller wholesale and consecutive systems that are part of a combined distribution system that includes at least one system serving ≥10,000 to complete IDSE monitoring and prepare and submit the IDSE report two years after the rule is finalized. This requirement for wholesale systems and consecutive systems serving fewer than 10,000 that are part of a combined distribution system with at least one system serving at least 10,000 to conduct an ''early IDSE'' allows the wholesale system to be aware of compliance challenges facing the consecutive system and to implement treatment plant capital and operational improvements as necessary to ensure compliance. The Advisory Committee and EPA both recognized that DBPs, once formed, are difficult to remove and are generally best addressed by treatment plant improvements.

While this schedule allows for systems to have the three years to comply with Stage 2B following State review of the IDSE report, it begins prior to States being required to obtain primacy to implement the IDSE. States have two years from promulgation to adopt and implement new regulations and may request a two year extension. While EPA is preparing to support implementation of those IDSE requirements that must be completed prior to States achieving primacy, several States have expressed concern about EPA providing guidance and reviewing reports from systems that the State has permitted, inspected, and worked with for a long time. These States believe that their familiarity with the systems enables them to make the best decisions to implement the rule and protect public health.

As specific rule requirements were developed and implementation schedules and resource burdens determined, States also expressed concerns about the challenges that early implementation posed. In response to these concerns, EPA has developed several alternatives to the IDSE schedule and provisions that may meet the goals of the IDSE, but allow for greater State involvement, lower implementation burden, and no delay of the public health protection assured by compliance with Stage 2B.

The first, the ''Alternative IDSE'' option, would delay the schedule for each IDSE requirement for two years. Since the compliance date for Stage 2B would not be delayed, systems would need to implement changes necessary for compliance on a much shorter schedule.

The second, the ''Concurrent Compliance Monitoring'' option, would eliminate the IDSE but require compliance monitoring at an increased number of sites during the first year of compliance monitoring as a way to identify sites with high DBP levels. This option would reduce government oversight and management and, as with other rules, leave compliance determinations and preparations to individual systems (with guidance available from States). In addition to compliance monitoring at Stage 1 DBPR compliance monitoring sites during the first year under Stage 2B, systems would also monitor at additional compliance monitoring sites equal in number to the IDSE requirement and selected using the same criteria that systems use to select IDSE monitoring sites. Following one year of concurrent compliance monitoring, the system would select routine Stage 2B compliance monitoring locations using a protocol similar to the one used to recommend Stage 2B compliance monitoring locations in the IDSE report.

Neither alternative would extend the compliance dates for either Stage 2A or Stage 2B. As with the proposed IDSE, systems would be eligible for the 40/30 certification approach if all TTHM and HAA5 compliance monitoring results in the two years prior to the effective date were below 0.040 mg/L and 0.030 mg/L, respectively. States would be able to grant very small system waivers to systems serving <500 with a State finding that Stage 1 DBPR compliance monitoring locations sites are adequate to represent both high TTHM and high HAA5 concentrations. Table V–11 contains a comparison of the proposed IDSE schedule and the schedules for the alternatives.

TABLE V–11.—COMPARISON OF IDSE AND IDSE ALTERNATIVE SCHEDULES

[Dates in italics are not in today's proposed rule, but reflect EPA's recommendation and guidance]

Requirement [1]	Today's proposal	''Alternative IDSE'' option	''Concurrent compliance monitoring'' option
IDSE start date for systems ≥10,000	0.5 years after publication.	2.5 years after publication	Requirement is for system to conduct concurrent compliance monitoring (generally equal to number of samples required under Stage 1 plus number under IDSE) during first year of compliance monitoring. Based on results in first year, system would identify routine compliance monitoring locations using a procedure similar to that in IDSE report and begin routine monitoring.
IDSE start date for systems <10,000	2.5 years after publication.	4.5 years after publication	
IDSE report due for systems ≥10,000	2 years after publication.	4 years after publication	
IDSE report due for systems <10,000	4 years after publication.	6 years after publication	
State review of IDSE report complete for systems ≥10,000.	3 years after publication.	5 years after publication	
State review of IDSE report complete for systems <10,000.	4.5 years after publication.	6.5 years after publication	
Stage 2B compliance for systems ≥10,000	6 years after publication [2]		
Stage 2B compliance for systems <10,000	7.5 years after publication if system is not required to conduct Cryptosporidium monitoring; 8.5 years after publication if system required to conduct Cryptosporidium monitoring [2]		

[1] Systems serving ≥10,000 also include wholesale systems and consecutive systems serving <10,000 that are part of a combined distribution system in which at least one system serves ≥10,000.

[2] State may grant up to two additional years for capital improvements necessary to comply.

3. Request for Comments

EPA requests comments on today's proposed compliance schedules. Specifically:

—Should EPA promulgate an alternative approach to the IDSE recommended in section V.H. that achieves the same goal of identifying Stage 2B compliance monitoring locations and does not delay compliance with Stage 2B MCLs, but allows for the States to receive primacy and be more involved in IDSE implementation? Do either the ''Alternative IDSE'' option or the ''Concurrent Compliance Monitoring'' option achieve this goal? Does one achieve the goal better than the other? Why? Are there either changes to these alternatives or other alternatives not presented that achieve this goal?

—Should EPA allow small consecutive systems to meet Stage 2B compliance deadlines corresponding to their size (and later than the deadlines for their wholesale system) provided they complete their IDSE on the same schedule as the wholesale system and provided their water quality does not affect the water quality of any other system?

K. Public Notice Requirements

1. What is EPA Proposing?

SDWA section 1414(c) requires PWSs to provide notice to their customers for certain violations or in other circumstances. EPA's public notification rule was published on May 4, 2000 (65 FR 25982), and is codified at 40 CFR 141.201–141.210 (Subpart Q). Today's proposal does not alter the existing TTHM and HAA5 health effects language that is required in most public notices under Subpart Q. Because of the uncertainties in the health data discussed in section III of today's document, EPA is not proposing to include information about reproductive and developmental health effects in public notices at this time.

2. Request for Comments

EPA requests comment on the proposed public notification requirements, including whether information about the possible reproductive or fetal development effects that may be associated with high levels of DBPs should be provided.

L. Variances and Exemptions

States may grant variances in accordance with sections 1415(a) and 1415(e) of the SDWA and EPA's regulations. States may grant exemptions in accordance with section 1416 of the SDWA and EPA's regulations.

1. Variances

The SDWA provides for two types of variances—general variances and small system variances. Under section 1415(a)(1)(A) of the SDWA, a State that has primary enforcement responsibility (primacy), or EPA as the primacy agency, may grant general variances from MCLs to those public water systems of any size that cannot comply with the MCLs because of characteristics of the water sources. A variance may be issued to a system on condition that the system install the best technology, treatment techniques, or other means that EPA finds available and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system. At the time this type of variance is granted, the State must prescribe a compliance schedule and may require the system to implement additional control measures. Furthermore, before EPA or the State may grant a general variance, it must find that the variance will not result in an unreasonable risk to health to the public served by the public water system. In this proposed rule, EPA is specifying BATs for general variances under section 1415(a) (see section V.F).

Section 1415(e) authorizes the primacy agency to issue variances to small public water systems (those serving fewer than 10,000 people) where the primacy agent determines (1) that the system cannot afford to comply with an MCL or treatment technique and (2) that the terms of the variances will ensure adequate protection of human health (63 FR 1943–57; USEPA 1998d). These variances may only be granted where EPA has determined that there is no affordable compliance technology and has identified a small system variance technology under section 1412(b)(15) for the contaminant, system size and source water quality in question. As discussed below, small system variances under section 1415(e) are not available because EPA has determined that affordable compliance technologies are available.

The 1996 Amendments to the SDWA identify three categories of small public water systems that need to be addressed: (1) Those serving a population of 3301–10,000; (2) those serving a population of 500–3300; and (3) those serving a population of 25–499. The SDWA requires EPA to make determinations of available compliance technologies and,

if needed, variance technologies for each size category. A compliance technology is a technology that is affordable and that achieves compliance with the MCL and/or treatment technique. Compliance technologies can include point-of-entry or point-of-use treatment units. Variance technologies are only specified for those system size/source water quality combinations for which there are no listed compliance technologies.

EPA has completed an analysis of the affordability of DBP control technologies for each of the three size categories. Based on this analysis, multiple affordable compliance technologies were found for each of the three system sizes (USEPA 2003i) and therefore variance technologies were not identified for any of the three size categories. The analysis was consistent with the methodology used in the document ''National-Level Affordability Criteria Under the 1996 Amendments to the Safe Drinking Water Act'' (USEPA 1998g) and the ''Variance Technology Findings for Contaminants Regulated Before 1996'' (USEPA 1998h).

2. What Are the Affordable Treatment Technologies for Small Systems?

The treatment trains considered and predicted to be used in EPA's compliance forecast for systems serving under 10,000 people, are listed in Table V–12.

TABLE V–12.—TECHNOLOGIES CONSIDERED AND PREDICTED TO BE USED IN COMPLIANCE TECHNOLOGY FORECAST FOR SMALL SYSTEMS [1]

SW water plants	GW water plants
• Switching to chloramines as a residual disinfectant	• Switching to chloramines as a residual disinfectant
• Chlorine dioxide (Not for systems serving fewer than 100 people)	• UV
• UV	• *Ozone (not for systems serving fewer than 100 people)* [2]
• *Ozone (not for systems serving fewer than 100 people)*	• *GAC20* [2]
• *Micro-filtration/Ultra-Filtration* [2]	• *Nanofiltration* [2]
• *GAC20* [2]	
• GAC20 + Advanced disinfectants	
• Membranes (Micro-Filtration/Ultra-Filtration + Nanofiltration)	

[1] Based on exhibits 6.8a and 6.8b in Economic Analysis for the proposed Stage 2 DBPR (USEPA 2003i)
[2] Italicized technologies are those predicted to be used in the compliance forecast.

The household costs for these technologies were compared against the national-level affordability criteria to determine the affordable treatment technologies. The Agency's national-level affordability criteria were published in the August 6, 1998 **Federal Register** (USEPA 1998g). In this document, EPA discussed the procedure for affordable treatment technology determinations for the contaminants regulated before 1996.

The following section provides a description of how EPA derived the national-level affordability criteria pertinent to this rule. First, EPA calculated an ''affordability threshold'' (*i.e.,* the total annual household water bill that would be considered affordable). The total annual water bill includes costs associated with water treatment, water distribution, and operation of the water system. In developing the threshold of 2.5% median household income, EPA considered the percentage of median household income spent by an average household on comparable goods and services and on cost comparisons with other risk reduction activities for drinking water such as households purchasing bottled water or a home treatment device. The complete rationale for EPA's selection of 2.5% as the affordability threshold is described in ''Variance Technology Findings for Contaminants Regulated Before 1996'' (USEPA 1998h).

The Variance Technology Findings document also describes the derivation of the baselines for median household income, annual water bills, and annual household consumption. Data from the Community Water System Survey (CWSS) were used to derive the annual water bills and annual water usage values for each of the three small system size categories. The data on zip codes were used with the 1990 Census data on median household income to develop the median household income values for each of the three small-system size categories. The median household-income values used for the affordable technology determinations are not based on the national median income. The value for each size category is a national median income for communities served by small water systems within that range. Table V–13 presents the baseline values for each of the three small-system size categories. Annual water bills are based on 1995 estimates (USEPA 1998h) and adjusted upward for anticipated costs attributed to new drinking water regulations since 1995, *i.e.*, the IESWTR, Stage 1 DBPR, Filter Backwash Recycling Rule, Arsenic Rule, LT1ESWTR, Public Notification Rule, and Consumer Confidence Rule.[1] Median household income estimates are based on estimates made in 1995 (USEPA 1998h) and adjusted upward for inflation to represent 2000 incomes (USEPA 2003i).

[1] EPA is currently receiving input from a National Drinking Water Advisory Council (NDWAC). This process is expected to conclude in the fall of 2003 with a report that will be sent by the NDWAC. EPA has also received a report from the Science Advisory Board's Environmental Economics Advisory Committee on its review of the national-level affordability criteria (USEPA 2002c). One of the charges given to both groups was to evaluate the process used by EPA to adjust the baseline water bills to account for costs attributable to regulations promulgated after 1996. Because the Stage 2 DBPR affordability analysis is being conducted before EPA can complete a comprehensive reassessment of affordability, today's estimate for the increase to the average water bill to account for regulations after 1996 reflects existing Agency affordability criteria and methodology. This estimate may change in the future.

TABLE V–13.—BASELINE VALUES FOR SMALL SYSTEMS CATEGORIES AND AVAILABLE EXPENDITURE MARGIN FOR AFFORDABLE TECHNOLOGY DETERMINATIONS

System size category (pop. served)	Annual HH consumption (1000 gallons/yr)	Median HH income ($)	2.5% median HH income(s)	Current annual water bills ($/yr)	Available expenditure margin ($/hh/year)
25–500	72	35,148	878	290	588
501–3,300	74	30,893	772	230	542
3,301–10,000	77	31,559	789	219	570

For each size category, the threshold value was determined by multiplying the median household income by 2.5 percent. The annual household water bills were subtracted from this value to obtain the available expenditure margin. Projected treatment costs were compared against the available expenditure margin to determine if there were affordable compliance technologies for each size category. The available expenditure margin for the three size categories is presented in Table V–13.

The size categories specified in SDWA for affordable technology determinations are different from the size categories typically used by EPA in the Economic Analysis. A weighted average procedure was used to derive design and average flows for the 25–500 category using design and average flows from the 25–100 and 101–500 categories. A similar approach was used to derive design and average flows from the 501–1000 and 1001–3300 categories for the 501–3300 category. The Variance Technology Findings document (USEPA 1998h) describes this procedure in more detail. Table V–14a lists the design and average flows for the three size categories.

TABLE V–14A.—DESIGN AND AVERAGE DAILY FLOWS USED FOR AFFORDABLE TECHNOLOGY DETERMINATIONS

System size category (population served)	Design flow (mgd)	Average flow (mgd)
25–500	0.058	0.015
501–3,300	0.50	0.17
3,301–10,000	1.8	0.70

Capital and operating and maintenance costs were derived for each treatment technology used in the compliance forecast for small systems using the flows listed previously and the cost equations in the Technology and Cost Document (USEPA 2003k). Capital costs were amortized using the 7 percent interest rate preferred by Office of Management and Budget (OMB) for benefit-cost analyses of government programs and regulations rather than a 3 percent interest rate.

The annual system treatment cost in dollars per year was converted into a rate increase using the average daily flow. The annual water consumption values listed in Table V–13 were multiplied by 1.15 to account for water lost due to leaks. Since the water lost to leaks is not billed, the water bills for the actual water used were adjusted to cover this lost water by increasing the household consumption. The rate increase in dollars per thousand gallons used was multiplied by the adjusted annual consumption to determine the annual cost increase for the household for each treatment technology.

With very few exceptions, the household costs for all predicted compliance technologies in Table V–12 are below the available expenditure margin. The only technology that was predicted to be used in the compliance forecast for the Stage 2 DBPR and that costs slightly more than the available expenditure margin is GAC20 (240 day carbon replacement) with advanced disinfectants for systems serving 500 people or fewer. As shown in the Economic Analysis (USEPA 2003i), 13 systems (less than 1 percent) among systems serving fewer than 500 people are predicted to use GAC20 with advanced disinfection to comply with the proposed Stage 2 DBPR. However, alternate affordable technologies are available. Thus, EPA believes that compliance by these systems will be affordable. In some cases, the compliance data for these systems under the Stage 2 DBPR is the same as under the Stage 1 DBPR (because many systems serving fewer than 500 people will have the same single sampling site under both rules); these systems will have already installed the necessary compliance technology to comply with the Stage 1 DBPR. It is also possible that less costly technologies such as those for which percentage use caps were set in the decision tree may actually be used to achieve compliance (*e.g.*, chloramines, UV).

As shown in Table V–14b, the cost model (USEPA 2003i) predicts that households served by very small systems will experience household cost increases greater than the available expenditure margins as a result of adding advanced technology for the Stage 2 DBPR. This prediction is probably overestimated because small systems have other compliance alternatives available to them besides adding treatment. For example, some of these systems currently may be operated on a part-time basis; therefore, they may be able to modify the current operational schedule or use excessive capacity to avoid installing a costly technology to comply with the Stage 2 DBPR. The system also may identify another water source that has lower TTHM and HAA5 precursor levels. Systems that can identify such an alternate water source may not have to treat that new source water as intensely as their current source, resulting in lower treatment costs. Systems may elect to connect to a neighboring water system. While connecting to another system may not be feasible for some remote systems, EPA estimates that more than 22 percent of all small water systems are located within metropolitan regions (USEPA 2000c) where distances between neighboring systems will not present a prohibitive barrier. More discussion of household cost increases is presented in a later section (Section VII) and the Economic Analysis (USEPA 2003i).

Table V-14b: Annual Household Cost Increases versus Available Expenditure Margin for Households Served by Small Systems Adding Treatment

Systems Size (population served)	Number of Households Served by Plants Adding Treatment (Percent of all Households Subject	Mean Annual Household Cost Increase	Median Annual Household Cost Increase	90th Percentile Annual Household Cost Increase	95th Percentile Annual Household Cost Increase	Available Expenditure Margin ($/hh/yr)	Number of Housholds with Annual Cost Increases Greater then the Available Expenditure Margin	Number of Plants with Annual Cost Increases Greater than the Available Expenditure Margin
0 - 500	42,355 (3.0%)	$184.55	$189.59	$189.59	$409.40	$588	1,325	22
501 - 3,300	158,044 (2.8%)	$47.74	$38.48	$152.41	$215.85	$542	0	0
3,301 - 10,000	221,110 (3.0%)	$33.21	$13.30	$98.18	$186.72	$570	0	0

[1]Detail may not to total add due to independent rounding. Households served by all plants will be higher than households served by plants adding treatment because an entire system will incur costs even if less than the total number of plants for that system

[2]The affordability criteria for systems serving 25 - 500 people is $588, for systems serving 501 - 3,300 is $542, and for systems serving 3,301 - 10,000 is $570

Source: Economic Analysis (USEPA 2003i) exhibit 8.4c

EPA is currently reviewing its national-level affordability criteria, and has solicited recommendations from both the NDWAC and the SAB as part of this review. If the national-level affordability criteria are revised prior to promulgation of the final Stage 2 DBPR, EPA may reevaluate the affordability of the identified small system compliance technologies based on the revised criteria and may revise its determination of whether to list any variance technologies as a result. EPA requests comment on the application of its affordability criteria in this rulemaking and on its determination that there are affordable small system compliance technologies for all three statutory small system size categories.

M. Requirements for Systems To Use Qualified Operators

EPA believes that systems that must make treatment changes to comply with requirements to reduce microbiological risks and risks from disinfectants and disinfection byproducts should be operated by personnel who are qualified to recognize and respond to problems. Subpart H systems were required to be operated by qualified operators under the SWTR (40 CFR 141.70). The Stage 1 DBPR added requirements for all disinfected systems to be operated by qualified personnel who meet the requirements specified by the State, which may differ based on system size and type. The rule also required that States maintain a register of qualified operators (40 CFR 141.130(c)). While the proposed Stage 2 DBPR requirements do not supercede or modify the requirement that disinfected systems be operated by qualified personnel, the Stage 2 DBPR re-emphasizes the important role that qualified operators play in delivering safe drinking water to the public. States should also review and modify, as required, their qualification standards to take into account new technologies (*e.g.*, ultraviolet (UV) disinfection) and new compliance requirements (including simultaneous compliance and consecutive system requirements).

N. System Reporting and Recordkeeping Requirements

1. Confirmation of Applicable Existing Requirements

Today's proposed Stage 2 DBPR, consistent with the current system reporting regulations under 40 CFR 141.131, requires public water systems to report monitoring data to States within ten days after the end of the compliance period. In addition, systems are required to submit the data required in § 141.134. These data are required to be submitted quarterly for any monitoring conducted quarterly or more frequently, and within ten days of the end of the monitoring period for less frequent monitoring.

2. Summary of Additional Reporting Requirements

EPA proposes that two years after rule promulgation, systems serving 10,000 or more people (plus consecutive systems that are part of a combined distribution system with a system serving at least 10,000) be required to report the results of their IDSE to their State, unless the State has waived this requirement for systems serving fewer than 500. Systems are also required to report to the State recommended long-term (Stage 2B) compliance monitoring sites as part of the IDSE report. While the IDSE options discussed in section V.J. would delay the timing of this requirement, EPA believes that the burden would not change.

Beginning three years after rule promulgation, systems must report compliance with Stage 2A MCLs based on LRAAs (0.120 mg/L TTHM and 0.100 mg/HAA5), as well as continue to report compliance with 0.080 mg/L TTHM and 0.060 mg/L HAA5 as RAAs. Systems must report compliance with the Stage 2B TTHM and HAA5 MCLs (0.080 mg/L TTHM and 0.060 mg/L HAA5 as LRAAs) according to the compliance schedules outlined in section V.J. of today's proposal. Reporting for DBP monitoring, as described previously, will remain generally consistent with current public water system reporting requirements (§ 141.31 and § 141.134); systems will be required to calculate and report each LRAA (instead of the system's RAA) and each individual monitoring result (as required under the Stage 1 DBPR). Systems will also be required to consult with the State about each peak excursion event no later than the next sanitary survey for the system, as discussed in section V.E.

3. Request for Comment

EPA requests comment on all system reporting and recordkeeping requirements.

O. Analytical Method Requirements

1. What Is EPA Proposing Today?

The Stage 2 DBPR proposed today does not add any new disinfectants or disinfection byproducts to the list of contaminants currently covered by MRDLs or MCLs. However, additional methods have become available since the analytical methods in the Stage 1 DBPR were promulgated (USEPA 1998c). EPA is proposing to add to 40 CFR 141.131 one method for chlorine dioxide and chlorite, one method for HAA5 which can also be used to analyze for the regulated contaminant dalapon, three methods for bromate, chlorite, and bromide, one method for bromate only, and one method for total

organic carbon (TOC) and specific ultraviolet absorbance (SUVA). One of the methods that is currently approved for bromate, chlorite, and bromide can be used to determine chloride, fluoride, nitrate, nitrite, orthophosphate, and sulfate, so EPA is proposing to add it as an approved method for those contaminants in 40 CFR 141.23 and 40 CFR 143.4. EPA is also proposing to add the HAA5 method that includes dalapon to 40 CFR 141.24 for dalapon compliance monitoring.

Several of the methods that were promulgated with the Stage 1 DBPR have been included in publications that were issued after December 1998. EPA is proposing to approve the use of the recently published versions of three methods for determining free, combined, and total chlorine residuals, two methods for total chlorine only, one method for free chlorine only, one method for chlorite and chlorine dioxide, one method for chlorine dioxide only, one method for HAA5, three methods for TOC and dissolved organic carbon (DOC), and one method for ultraviolet absorption at 254nm (UV_{254}). EPA is proposing to update the citation for one method for bromate, chlorite, and bromide.

EPA is also proposing to standardize the HAA5 sample holding times and the bromate sample preservation procedure and holding time. EPA is clarifying which methods are approved for magnesium hardness determinations in 40 CFR 141.131 and 40 CFR 141.135.

Analytical methods that are proposed for approval or for which changes are proposed in today's rule are summarized in Table V–15 and are described in more detail later in this section.

TABLE V–15.—ANALYTICAL METHODS ADDRESSED IN TODAY'S PROPOSED RULE

Analyte	EPA method	Standard method [1]	Other
§141.23			
Fluoride	300.1		
Nitrate	300.1		
Nitrite	300.1		
Orthophosphate	300.1		
§141.24			
Dalapon	552.3		
§141.131—Disinfectants			
Chlorine (*free, combined, total*)		4500–Cl D	
		4500–Cl F	
		4500–Cl G	
(*total*)		4500–Cl E	
		4500–Cl I	
(*free*)		4500–Cl H	
Chlorine Dioxide	327.0	4500–ClO_2 D	
		4500–ClO_2 E	
§141.131—Disinfection Byproducts			
HAA5	552.1 [2]	6251 B [2]	
	552.3		
Bromate	300.1 [3]		ASTM D 6581–00
	317.0 Revision 2		
	321,8 [4]		
	326.0		
Chlorite (*monthly or daily*)	300.1 [3]		ASTM D 6581–00
	317.0 Revision 2		
	326.0		
(*daily*)	327.0	4500–ClO_2 E	
§141.131—Other parameters			
Bromide	300.1 [3]		ASTM D 6581–00
	317.0 Revision 2		
	326.0		
TOC/DOC	415.3	5310 B	
		5310 C	
		5310 D	
UV_{254}	415.3	5910 B	
SUVA	415.3		
§143.4			
Chloride	300.1		
Sulfate	300.1		

[1] EPA is proposing to cite both the 20th edition and the 2003 On-Line Version of *Standard Methods for the Examination of Water and Waste Water* in addition to the currently cited 19th editions for all methods listed in this column with the exception of 4500–ClO_2 D for chlorine dioxide which is not available in the 2003 On-Line Version.

[2] EPA is proposing to change the sample holding time to 14 days.

[3] EPA is proposing to update the citation.

[4] EPA is proposing that samples be preserved with 50 mg ethylenediamine/L and analyzed within 28 days.

2. How Was This Proposal Developed?

EPA evaluated the performance of the new methods for their applicability to compliance monitoring. The primary purpose of this evaluation was to determine if the new methods provide data of comparable or better quality than the methods that are currently approved. Methods currently approved for DBPs were also examined to determine applicability to other regulated contaminants.

EPA reviewed the new publications of methods from consensus organizations such as Standard Methods and American Society for Testing and Materials (ASTM). As a result, EPA identified one new method from ASTM

which is suitable for compliance monitoring. EPA also determined that the newer editions of Standard Methods did not change the individual methods approved under the Stage 1 DBPR.

3. Which New Methods Are Proposed for Approval?

a. *EPA Method 327.0 for chlorine dioxide and chlorite.* EPA is proposing to add a new method for the measurement of chlorine dioxide residuals and daily chlorite concentrations. EPA Method 327.0 (USEPA 2003q) is an enzymatic/spectrophotometric method in which a total chlorine dioxide plus chlorite concentration is determined in an unsparged sample and the chlorite concentration is determined in a sparged sample. The chlorine dioxide concentration is then calculated by subtracting the chlorite concentration from the total.

The pH of the samples (sparged and unsparged) and blank are adjusted to 6.0 with a citric acid/glycine buffer. The chromophore Lissamine Green B (LGB) and the enzyme horseradish peroxidase are added. The enzyme reacts with the chlorite in the sample to form chlorine dioxide which then reacts with the chromophore LGB to reduce the absorbance at 633nm of the sample. The absorbance of the samples and blank are determined spectrophotometrically. The difference in absorbance between the samples and the blank is proportional to the chlorite and total chlorine dioxide/chlorite concentrations in the samples.

EPA Method 327.0 offers advantages over the currently approved methods in that it is not subject to positive interferences from other chlorine species and it is easier to use.

The single laboratory detection limits presented in the method are 0.08–0.11 mg/L for chlorite and 0.04–0.16 mg/L for chlorine dioxide. The detection limits are based on the analyses of sets of seven replicates of reagent water that were fortified with low concentrations of chlorite with and without the presence of chlorine dioxide and low concentrations of chlorine dioxide with and without the presence of chlorite. The standard deviation of the mean concentration for each set of samples was calculated and multiplied by the student's t-value at 99% confidence and n–1 degrees of freedom (3.143 for 7 replicates) to determine the detection limit. The accuracy reported in the method for laboratory fortified blanks at concentrations of 0.2–1.0 mg/L is 103–118 % for chlorite and 102–124 % for chlorine dioxide with relative standard deviations between 2.9 and 16 %. Replicate analyses of drinking water samples from surface and ground water sources fortified at concentrations of approximately 1 and 2 mg/L chlorite and chlorine dioxide showed average recoveries of 91–110 % with relative standard deviations of 1–9 %.

EPA is proposing to approve EPA Method 327.0 as an additional method for monitoring chlorine dioxide and for making the daily determination of chlorite at the entry point to the distribution system. It will provide water systems with additional flexibility in monitoring the application of chlorine dioxide. EPA believes that many water plant operators will prefer the new method over the currently approved methods due to its ease of use.

b. *EPA Method 552.3 for HAA5 and dalapon.* EPA is proposing to add a new method (EPA Method 552.3) for HAA5 that provides comparable sensitivity, accuracy, and precision to the previously approved methods. EPA Method 552.3 (USEPA 2003p) has the added benefit of allowing laboratories to more easily measure four additional haloacetic acids (bromochloroacetic acid, bromodichloroacetic acid, chlorodibromoacetic acid, and tribromoacetic acid) at the same time the HAA5 compounds are being measured, without compromising the quality of data for the HAA5 compounds. Of the currently approved methods for HAA5, only EPA Method 552.2 (USEPA 1995) provides method performance data for all of these additional compounds, but the reaction conditions must be carefully controlled. EPA believes that analyses for these additional HAAs can be accomplished more easily without compromising the quality of data for the HAA5 compounds by using EPA Method 552.3.

EPA Method 552.3 for HAA5, other haloacetic acids, and the regulated contaminant dalapon allows two extraction options. The first option involves an acidic extraction with methyl tertiary butyl ether (MTBE) which is the same solvent used in the currently approved HAA5 methods. The analytes (HAA5, other HAAs, and dalapon) are then converted to their methyl esters by the addition of acidic methanol to the extract followed by heating. The amount of acidic methanol that is added to the extract is increased in the new method resulting in increased methylation efficiency for some of the analytes. The increased methylation efficiency is significant for the additional HAAs and thus provides greater sensitivity, precision, and accuracy for them when compared to EPA Method 552.2. The acidic extract is neutralized with a saturated solution of sodium bicarbonate and the target analytes are identified and measured by gas chromatography using electron capture detection (GC/ECD).

The second option in the new EPA Method 552.3 involves an acidic extraction with tertiary amyl methyl ether (TAME). The HAAs are then converted to their methyl esters by the addition of acidic methanol to the extract followed by heating. The use of TAME instead of MTBE as the extraction solvent allows the use of a higher temperature during the methylation process. This increases the methylation efficiency and thus provides significant increases in sensitivity, precision, and accuracy for the additional HAAs. The acidic extract is neutralized with a saturated solution of sodium bicarbonate and the target analytes are identified and measured by gas chromatography using electron capture detection (GC/ECD).

The performance of EPA Method 552.3 is comparable to the currently approved methods for determining the HAA5 analytes. A comparison of the performance of EPA Method 552.3 to the currently approved HAA5 methods is shown in Table V–16. The data are taken from the individual methods, so the precision, accuracy, and detection data were not generated using the same samples or by the same laboratory.

TABLE V–16.—PERFORMANCE OF HALOACETIC ACID METHODS

QC Parameter	MCAA	DCAA	TCAA	MBAA	DBAA
Precision (Max %RSD in fortified drinking water samples) [1]					
EPA 552.1	15	14	28	11	7
EPA 552.2	13	6	15	6	5
EPA 552.3 (MTBE option)	6	4	1	4	5
EPA 552.3 (TAME option)	10	4	2	4	5
SM 6251 B	8	7	6	8	7

TABLE V–16.—PERFORMANCE OF HALOACETIC ACID METHODS—Continued

QC Parameter	MCAA	DCAA	TCAA	MBAA	DBAA
Accuracy (Range of % Recoveries in fortified drinking water samples) [2]					
EPA 552.1	76–100	75–126	56–106	86–97	94–103
EPA 552.2	84–97	96–105	62–82	86–100	72–112
EPA 552.3 (MTBE option)	98–126	96–103	89–100	99–113	101–111
EPA 552.3 (TAME option)	97–131	97–107	89–103	99	101–105
SM 6251 B	99–103	96–103	100–103	97–101	102
Detection Limit (µg/L) [3]					
EPA 552.1	0.21	0.45	0.07	0.24	0.09
EPA 552.2	0.27	0.24	0.08	0.20	0.07
EPA 552.3 (MTBE option)	0.17	0.02	0.02	0.03	0.01
EPA 552.3 (TAME option)	0.20	0.08	0.02	0.13	0.02
SM 6251 B	0.08	0.05	0.05	0.09	0.06

[1] The highest relative standard deviation (%RSD) for replicate analyses of fortified drinking water samples as shown in each method.
[2] The range of recoveries reported for replicate analyses of fortified drinking water samples as shown in each method.
[3] The detection limit as determined by analyzing seven or more replicates of reagent water that is fortified with low concentrations of the haloacetic acids. The standard deviation of the mean concentration for each analyte is calculated and multiplied by the student's t-value at 99% confidence and n-1 degrees of freedom (3.143 for 7 replicates).

Two of the currently approved HAA5 methods (EPA Methods 552.1 (USEPA 1992) and 552.2 (USEPA 1995)) are also approved for analyses of water samples for the regulated contaminant dalapon, a synthetic organic chemical. The new HAA5 method can also be used to determine dalapon in drinking water. As shown in Table V–17, both solvent options in EPA Method 552.3 provide comparable or better method performance than the approved methods.

TABLE V–17.—PERFORMANCE OF DALAPON METHODS

Dalapon performance characteristic	EPA 552.1	EPA 552.2	EPA 552.3	
			MTBE	TAME
Precision[1] (% RSD)	14	11	2	4
Accuracy[2] (% Recovery)	88–102	86–100	98–112	87–103
Detection Limit[3] (µg/L)	0.32	0.12	0.02	0.14

[1] The highest relative standard deviation (%RSD) for replicate analyses of fortified drinking water samples as shown in each method.
[2] The range of recoveries reported for replicate analyses of fortified drinking water samples as shown in each method.
[3] The detection limit as determined by analyzing seven or more replicates of reagent water that is fortified with low concentrations of dalapon. The standard deviation of the mean dalapon concentration is calculated and multiplied by the student's t-value at 99% confidence and n-1 degrees of freedom (3.143 for 7 replicates).

EPA is proposing to approve EPA Method 552.3 for dalapon (§ 141.24(e)(1)) in addition to HAA5 even though dalapon is not a contaminant that is addressed in this proposed rule. EPA believes that extending approval to all the regulated contaminants covered by the method provides more flexibility to laboratories. It allows the laboratories the option of reducing the number of methods that they need to keep in operation for their clients, because the new method can be used for dalapon and HAA5 compliance monitoring samples and for determining the additional HAAs for non-regulatory purposes. EPA recognizes that laboratories will probably not be determining dalapon concentrations for compliance purposes in the same samples as used for HAA5 compliance monitoring. However, EPA believes allowing the same method to be used even if the samples are not the same is more cost effective for laboratories, because switching between methods results in increased analyst and instrument time. EPA is not proposing to withdraw the other dalapon methods, because that would reduce flexibility for the laboratories and place an unnecessary burden on laboratories that do not need to use EPA Method 552.3.

c. *ASTM D 6581–00 for bromate, chlorite, and bromide.* ASTM Method D 6581–00 (ASTM 2002) for the determination of bromate, chlorite, and bromide was adopted by ASTM in 2000. This method uses the same procedures as EPA Method 300.1 (USEPA 2000l) (the method promulgated in the Stage 1 DBPR) and thus is considered equivalent to the approved method (Hautman *et al.* 2001). The ASTM method includes interlaboratory study data that were not available when EPA Method 300.1 was published. The study data demonstrate good precision and low bias for all analytes.

Under section 12(d) of the National Technology Transfer and Advancement Act, the Agency is directed to consider whether to use voluntary consensus standards in its regulatory activities. ASTM Method D 6581–00 is an acceptable consensus standard and it is published in the 2001, 2002, and 2003 editions of *The ASTM Annual Book of Standards.* EPA is proposing to approve ASTM Method D 6581–00 in order to provide additional flexibility to laboratories. Any edition containing the cited version may be used.

d. *EPA Method 317.0 revision 2 for bromate, chlorite, and bromide.* EPA Method 317.0 Revision 2 (USEPA 2001d) is an extension of the currently approved EPA Method 300.1 for bromate, chlorite, and bromide. It uses the EPA Method 300.1 technology, but it adds a postcolumn reactor that provides a more sensitive and specific analysis for bromate than is obtained using EPA Method 300.1. As with EPA Method 300.1, the anions are separated by ion chromatography and detected using a conductivity detector. (Bromate, chlorite, and bromide concentrations determined by the conductivity detector are equivalent to those measured using EPA Method 300.1.) After the sample

passes through the conductivity detector, it enters a postcolumn reactor chamber in which *o*-dianisidine dihydrochloride (ODA) is added to the sample. This compound forms a chromophore with the bromate that is present in the sample and the chromophore concentration is determined using a ultraviolet/visible (UV/Vis) absorbance detector. There are several advantages of this method:

(1) Very few ions react with ODA to form compounds that are detected by the UV/Vis detector. This makes the method less susceptible to interferences for bromate.

(2) The UV/Vis detector is very sensitive to the chromophore, so lower concentrations of bromate can be detected and quantitated. (Bromate concentrations can be reliably quantitated as low as 1 µg/L using this detector versus 5 µg/L for EPA Method 300.1.)

(3) Since the front part of the analysis is the same as EPA Method 300.1, bromate, chlorite, and bromide can be determined in the same analysis.

The first version of this method, EPA Method 317.0 has been evaluated in a multiple laboratory study (Wagner *et al.* 2001; Hautman *et al.* 2001). The results from the study indicate high precision and very low bias in data generated using this method. The interlaboratory precision for bromate, chlorite, and bromide using the conductivity detector and bromate using the UV/Vis detector are 12%, 4.2%, 6.9%, and 9.6% relative standard deviation (RSD), respectively. The interlaboratory bias for bromate, chlorite, and bromide using the conductivity detector and bromate using the UV/Vis detector are 0.35%, −0.98%, −0.87%, and 4.8%, respectively. The average detection levels for bromate, chlorite, and bromide using the conductivity detector and bromate using the UV/Vis detector are 2.2, 1.6, 2.8, and 0.24 µg/L, respectively.

Subsequent to the interlaboratory study of EPA Method 317.0, a problem with ODA was discovered. The purity of the reagent can vary from lot to lot and this affects the performance of the method. EPA has evaluated the method performance using ODA obtained from several commercial sources and from different lots from the same supplier. Based on that new information, EPA revised Method 317.0 to document how to detect and correct problems that can result from a contaminated ODA supply. The revised method is designated EPA Method 317.0 Revision 2.0 and this is the version that is being proposed today. The performance of the revised method is identical to the original version.

EPA believes EPA Method 317.0 Revision 2.0 should be approved as an additional method for bromate, chlorite, and bromide compliance monitoring. EPA anticipates that water systems will prefer to have their bromate samples analyzed by this new method, because it provides higher quality data than the currently approved method when bromate concentrations are below the MCL of 0.010 mg/L (10 µg/L). Only a few laboratories are currently performing analyses using the postcolumn reactor technology included in the method, but the number is increasing as more laboratories become aware of the advantages.

e. *EPA Method 326.0 for bromate, chlorite, and bromide.* EPA Method 326.0 (USEPA 2002a) is based on the procedure reported by Salhi and von Gunten (1999) and uses an approach that is similar to EPA Method 317.0 Revision 2.0. The method involves the separation of the anions (bromate, chlorite, and bromide) following the scheme outlined in EPA Methods 300.1 and 317.0 Revision 2.0. (Bromate, chlorite, and bromide data from the conductivity detector are equivalent to data generated using EPA Method 300.1.) The eluent stream exiting the conductivity detector is mixed with a postcolumn reagent consisting of an acidic solution of potassium iodide with a catalytic concentration of molybdenum (VI). Bromate reacts with the iodide to form triiodide which is measured by its UV absorption at 352 nm.

EPA Method 326.0 has similar accuracy, precision, and sensitivity for bromate compared to EPA Method 317.0 Revision 2.0. Thirty drinking water samples fortified with 1–7 µg bromate/L were analyzed using both methods. Accuracy, expressed as % recovery, ranged from 78.0 to 129% for both methods and precision, expressed as % RSD ranged from 3.7 to 13.5% (Wagner *et al.* 2002). The detection limit of EPA Method 326.0 is 0.17 µg/L as determined by analyzing seven or more replicates of reagent water that is fortified with low concentrations of bromate. The standard deviation of the mean bromate concentration is calculated and multiplied by the student's t-value at 99% confidence and n-1 degrees of freedom (3.143 for 7 replicates).

EPA is proposing EPA Method 326.0 as an additional method for bromate, chlorite, and bromide compliance monitoring. It provides higher quality bromate data than the currently approved EPA Method 300.1 when bromate concentrations are below 10 µg/L. EPA anticipates the number of laboratories using this method will increase as utilities become aware of the method's sensitivity and begin to request it be used for their samples.

f. *EPA Method 321.8 for bromate.* EPA is proposing to add EPA Method 321.8 (USEPA 2000d) specifically for bromate compliance monitoring. It involves an ion chromatograph coupled to an inductively coupled plasma mass spectrometer (IC/ICP–MS). The ion chromatograph separates bromate from other ions present in the sample and then bromate is detected and quantitated by the ICP–MS. Mass 79 is used for quantitation while mass 81 provides isotope ratio information that can be used to screen for potential polyatomic interferences. The advantage of this method is that it is very specific and sensitive to bromate. The single laboratory detection limit presented in the method is 0.3 µg/L. The average accuracy reported in the method for laboratory fortified blanks is 99.8% recovery with a three sigma control limit of 10.2%. Average accuracy and precision in fortified drinking water samples are reported as 97.8% recovery and 2.9% relative standard deviation, respectively.

During the Information Collection Rule, thirty-three samples were analyzed by this method in addition to the selective anion concentration (SAC) method used by EPA for the low-level bromate analyses. EPA Method 321.8 provided comparable data to that generated by the SAC method (Fair 2002).

EPA Method 321.8 has undergone second laboratory validation (Day *et al.* 2001) and the results indicate the method can be successfully performed in non-EPA laboratories. The calculated detection limit determined by the second laboratory is 0.4 µg/L. The average accuracy achieved for laboratory fortified blanks at 5 µg/L is 93% recovery with a relative standard deviation of 8.9%. Average accuracy and precision in fortified drinking water samples are reported as 101% recovery and 9% relative standard deviation, respectively.

The IC/ICP–MS instrumentation used in EPA Method 321.8 is a new technology in the drinking water laboratory community. Even though the technology is not yet widely used, EPA believes that approving this new method will provide laboratories with the flexibility to adopt the new technology if they have additional applications for it. The instrumentation is especially promising in the area of trace metal speciation. Laboratories that are performing that type of analysis would find it very useful to also be able

to perform bromate compliance monitoring analyses by EPA Method 321.8. EPA believes that advances in analytical technology should be encouraged when they provide additional options for obtaining accurate and precise data for compliance monitoring. Approval of this method would not require laboratories to adopt the new technology; it strictly offers the choice for laboratories that would like to use the latest technology.

EPA is proposing to add sample collection and holding time requirement to EPA Method 321.8. The current method does not address the potential for changes in bromate concentrations after the sample is collected as a result of reactions with hypobromous acid/hypobromite ion. Hypobromous acid/hypobromite ion are intermediates formed as byproducts of the reaction of either ozone or hypochlorous acid/hypochlorite ion with bromide ion. If not removed from the sample matrix, further reactions may form bromate ion. The reactions can be prevented by adding 50 mg of ethylenediamine (EDA)/L of sample. This is the preservation technique specified in the other methods both approved and proposed for bromate compliance analyses. The fortified drinking water samples analyzed in the second laboratory validation study of EPA Method 321.8 (Day *et al.* 2001) and the Information Collection Rule samples that were analyzed using the SAC method and EPA Method 321.8 were preserved with EDA, thus demonstrating that EDA can be used in samples analyzed by IC/ICP–MS. EPA believes that adding this sample preservation requirement to EPA Method 321.8 will help ensure sample integrity. It will also simplify the sampling protocols that water systems must follow, because all sampling for bromate, regardless of the method employed to analyze the sample, will require the same sample preservation technique.

EPA Method 321.8 does not include information concerning how long a sample may be stored prior to analysis. EPA is proposing to specify a maximum of 28 days for the sample holding time. This would make the method consistent with the other bromate methods proposed today and the method that is currently approved.

g. *EPA 415.3 for TOC and SUVA (DOC and UV_{254}).* Today's rule proposes to add EPA Method 415.3 (USEPA 2003r) as an approved method for TOC and SUVA. The Stage 1 DBPR included three Standard Methods for TOC and one method for UV_{254}. Additional quality control (QC) requirements were included for these measurements, because the methods did not contain the necessary criteria. The rule included instructions for calculating SUVA based on UV_{254} and DOC analyses. The new EPA Method 415.3 includes the additional QC necessary to achieve reliable determinations for TOC, DOC, and UV_{254}. It describes a procedure for removing inorganic carbon from the sample prior to the organic carbon analysis. The method uses the same technologies as already approved. The advantage of this new method is that it documents the precision and accuracy that can be expected when proper QC procedures are implemented and it places all the necessary information for SUVA in one place.

EPA Method 415.3 provides sensitivity, precision and accuracy data for TOC and DOC measured using five different technologies:

(1) Catalyzed 680°C combustion oxidation of organic carbon to carbon dioxide (CO_2) followed by nondispersive infrared detection (NDIR).

(2) High temperature (700 to 1100°C) combustion oxidation followed by NDIR.

(3) Elevated temperature (95–100°C) catalyzed persulfate digestion of organic carbon to CO_2 followed by NDIR.

(4) UV catalyzed persulfate digestion followed by NDIR.

(5) UV catalyzed persulfate digestion followed by membrane permeation into a conductivity detector.

These technologies are included in the currently approved Standard Methods 5310 B and 5310 C (APHA, 1996). The new method indicates these technologies can provide detection limits between 0.02 mg/L and 0.12 mg/L. Accuracy and precision data from analyses of fortified reagent water and natural waters indicate the technologies can produce acceptable data for determining compliance with the treatment technique for control of disinfection byproduct precursors specified in § 141.135. Seven natural waters were fortified with organic carbon from potassium hydrogen phthalate and analyzed by each of the five technologies. The average recoveries ranged from 97% to 103% for TOC and 98% to 106% for DOC.

The method presents data from the analyses of seven different waters and demonstrates that comparable analytical results are obtained regardless of the technology used as long as all inorganic carbon is removed from the sample prior to the analysis. The samples ranged in concentration from 0.4 to 3.6 mg/L and the relative standard deviations across the analyses ranged from 35% RSD (for the lowest concentration sample) to ≤13% RSD for the remainder of the samples.

EPA Method 415.3 includes a procedure to ensure that inorganic carbon does not interfere with the organic carbon analyses. Since this is critical to obtaining accurate organic carbon determinations, EPA is proposing to add a requirement at §§ 141.131(d)(3) and (4)(i) to remove inorganic carbon prior to performing TOC or DOC analyses. Laboratories will have the option of using the procedure described in EPA Method 415.3 or verifying that the process used by their TOC instrument adequately removes the inorganic carbon prior to the organic carbon measurement. Determination of organic carbon by subtracting the inorganic carbon from the total carbon is not acceptable for compliance purposes, because the percentage of inorganic carbon is usually large in relation to the organic carbon of the sample and the subtraction process introduces a large potential for error.

The manufacturer of one of the instruments that was used during the development of EPA Method 415.3 recommends that hydrochloric acid be used to acidify TOC and DOC samples prior to analysis. EPA confirmed that use of this acid is critical for proper operation of the instrument. However, use of hydrochloric acid is in conflict with the current regulation at §§ 141.131(d)(3) and (4)(i) which specify phosphoric or sulfuric acid. The type of acid used to preserve samples and to treat the samples to remove inorganic carbon prior to the organic carbon analysis should be based on the analytical method or the instrument manufacturer's specification. Therefore, EPA is proposing to remove the specification of acid type from §§ 141.131(d)(3) and (4)(i).

EPA Method 415.3 specifies that TOC samples be acid preserved at the time of collection in order to prevent microbial degradation of the organic carbon. This is consistent with the sampling instructions in the currently approved methods (Standard Methods 5310 B, 5310 C, and 5310 D). EPA proposes to amend § 141.131(d)(3) by removing the phrase ''not to exceed 24 hours'' in the description of when samples must be preserved, so that the rule is consistent with the method specifications.

Analyses for both DOC and UV_{254} are required for a SUVA determination. The DOC measurement is identical to the TOC measurement after the sample is filtered through a 0.45 μm pore size filter. The filtration step must be

performed using a prewashed filter in order to eliminate positive interferences from material that can leach from improperly cleaned filters. EPA Method 415.3 contains a description of how to properly rinse the filters and how to verify that the filter blank is acceptable. The method demonstrates that it is feasible to have a filter blank with a DOC concentration <0.2 mg/L. The method also provides performance data for DOC.

The UV_{254} analysis that is part of the SUVA determination is also described in EPA Method 415.3. As with the DOC measurement, the UV_{254} analysis is performed on a sample that has been filtered through a prewashed 0.45 μm pore size filter. In addition to verifying that the filter blank is low enough, the method also includes a spectrophotometer check procedure to ensure that the spectrophotometer is operating properly.

4. What Additional Regulated Contaminants Can Be Monitored by Extending Approval of EPA Method 300.1?

In addition to bromate, chlorite, and bromide, EPA Method 300.1 (USEPA 2000l) can also be used to determine chloride, fluoride, nitrate, nitrite, orthophosphate, and sulfate in drinking water. A comparison of the performance of EPA Method 300.1 to the currently approved EPA Method 300.0 (USEPA 1993) is shown in Table V–18 and demonstrates that EPA Method 300.1 provides comparable or better precision, accuracy, and sensitivity for these contaminants based on the single laboratory data presented in each method.

TABLE V–18.—COMPARISON OF EPA METHODS 300.0 AND 300.1

QC parameter	Chloride	Fluoride	Nitrate	Nitrite	Phosphate-P	Sulfate
Precision (Max % RSD in fortified water samples)[1]						
EPA 300.0	5.7	18	4.8	3.6	3.5	7.1
EPA 300.1	0.22	0.85	0.41	0.77	4.7	0.39
Accuracy (Range of % Recoveries in fortified water samples)[2]						
EPA 300.0	86–114	73–95	93–104	92–121	95–99	95–112
EPA 300.1	93–98	80–89	88–96	72–87	61–92	89
Detection Limit (mg/L)[3]						
EPA 300.0	0.02	0.01	0.002	0.004	0.003	0.02
EPA 300.1	0.004	0.009	0.008	0.001	0.019	0.019

[1] The highest relative standard deviation (%RSD) reported in the method for replicate analyses of fortified water samples in a single laboratory.
[2] The range of recoveries reported for replicate analyses of fortified water samples in a single laboratory as shown in the method.
[3] The detection limit as determined by analyzing seven or more replicates of reagent water that is fortified with low concentrations of the anions. The standard deviation of the mean concentration for each analyte is calculated and multiplied by the student's t-value at 99% confidence and n-1 degrees of freedom (3.143 for 7 replicates).

EPA is proposing to extend approval of EPA Method 300.1 for fluoride, nitrate, nitrite, and orthophosphate (§ 141.23(k)(1)) and for chloride and sulfate (§ 143.4(b)) even though these contaminants are not addressed in today's proposed rule. As discussed before for dalapon, EPA believes that extending approval to all the regulated contaminants covered in a method provides greater flexibility to laboratories and allows them to reduce analytical costs. EPA recognizes that laboratories will probably not be determining concentrations of these non-DBP anions for compliance purposes in the same samples as used for chlorite or bromate compliance monitoring. However, EPA believes allowing the same method to be used even if the samples are not the same is more cost effective for laboratories. EPA is not proposing to withdraw any methods for the non-DBP anions, because that would place an unnecessary burden on laboratories that do not need to use EPA Method 300.1.

5. Which Methods in the 20th Edition and 2003 On-Line Version of Standard Methods Are Proposed for Approval?

The Stage 1 DBPR approved eight methods (4500–Cl D, 4500–Cl F, 4500–Cl G, 4500–Cl E, 4500–Cl I, 4500–Cl H, 4500–ClO_2 D, and 4500–ClO_2 E) for determining disinfection residuals from the 19th edition of Standard Methods (APHA, 1995). *Standard Methods* 6251 B and 4500–ClO_2 E in the 19th edition of *Standard Methods* (APHA, 1995) were approved for HAA5 and daily chlorite analyses, respectively. Three TOC methods (5310 B, 5310 C, and 5310 D) from the Supplement to the 19th edition of *Standard Methods* (APHA, 1996) and one UV_{254} method (5910 B) from the 19th edition of *Standard Methods* (APHA, 1995) were also approved in the Stage 1 DBPR.

These thirteen methods are unchanged in the 20th edition of *Standard Methods* (APHA, 1998), so EPA proposes to cite the 20th edition for these analyses in addition to the 19th editions.

The On–Line Version of *Standard Methods* is an effort to provide the consensus methods to the public prior to the release of the next full publication. Standard Methods is making sections of the next version available for purchase in both electronic or printed format. EPA has reviewed the applicable sections and determined that ten of the methods are identical to the currently approved versions from the 19th editions. Section 4500–Cl contains the methods for determining chlorine residuals and it includes the 4500–Cl D, 4500–Cl F, 4500–Cl G, 4500–Cl E, 4500–Cl I, and 4500–Cl H. Section 4500–ClO_2 contains the methods for determining chlorine dioxide residuals and chlorite and it includes method 4500–ClO_2 E. Section 5310 contains the methods for determining TOC and it includes methods 5310 B, 5310 C, and 5310 D. Because the ten listed methods in these sections are unchanged from the versions that were published in the 19th editions, EPA is proposing to cite the On–Line Version for these analyses in

addition to the currently approved 19th editions and the proposed 20th edition.

Section 6251 includes method 6251 B for HAA5. The method has been updated for the On–Line Version to include precision and accuracy data from the Information Collection Rule and the sample holding time has been extended from 9 days to 14 days. The additional quality control data does not technically change the method from the previously approved version in the 19th edition; it simply demonstrates the performance that can be expected when the method is used. The change in sample holding time is consistent with EPA's proposal to standardize the HAA5 sample holding time at 14 days (*See* discussion in section V.O.7). Thus EPA is proposing to cite the On–Line Version for this analysis in addition to the currently approved 19th edition and the proposed 20th edition.

Section 5910 includes method 5910 B for determining UV_{254}. The method has been updated for the On–Line Version to include precision data from the Information Collection Rule. Because the additional quality control data does not technically change the method from the previously approved version in the 19th edition, EPA is proposing to cite the On–Line Version for this analysis in addition to the currently approved 19th edition and the proposed 20th edition.

The On–Line Version of *Standard Methods* will not include method 4500–ClO_2 D, so it is not being proposed with the other twelve methods cited in the On–Line Version.

EPA is proposing to add a citation to the 20th edition and the On–Line Version of *Standard Methods* for thirteen and twelve methods, respectively. EPA believes these should be cited in addition to the 19th editions in order to allow flexibility for the water systems performing the analyses. Withdrawal of the older editions would require all systems to purchase one of the newer editions, which could impose an unnecessary burden on systems that use the reference for only a few methods.

6. What Is the Updated Citation for EPA Method 300.1?

EPA Method 300.1 (USEPA 2000l) for bromate, chlorite and bromide is now included in an EPA methods manual that was published August 2000. The manual titled ''Methods for the Determination of Organic and Inorganic Compounds in Drinking Water'' is a compilation of methods developed by EPA for drinking water analyses. EPA Method 300.1 was previously only available as an individual method. EPA proposes to update the bromate, chlorite, and bromide citation for this method to the August 2000 methods manual in today's rule so that the users are directed to the correct source of the method.

7. How Is the HAA5 Sample Holding Time Being Standardized?

The analytical methods approved for HAA5 compliance monitoring (EPA 552.1, EPA 552.2, and Standard Method 6251 B) all specify the use of ammonium chloride to eliminate the free chlorine residual in samples and they require samples be iced/refrigerated after collection. Even though the sampling parameters agree in the three methods, the methods specify different sample holding times (time between sample collection and extraction). EPA Methods 552.1 (USEPA 1992) and 552.2 (USEPA 1995) allow at least 14 days while Standard Method 6251 B (APHA 1995 and 1998) specifies that samples must be extracted within nine days of sample collection. The holding time for the Standard Method is based on data which indicated an increase in DCAA concentration to slightly greater than 120% of the initial concentration after the sample was stored for 14 days (Krasner *et al.* 1989). All other HAA5 compounds were well within the 80–120% criteria set by the researchers. The decision was made to use a conservative approach to be sure that the concentrations of all HAAs were stable, and nine days was the closest data point to the 14 day–data point in question. Subsequent to Krasner's study, EPA conducted additional sample holding time studies as part of the EPA methods development process. EPA has published data to support the 14–day sample holding time for the HAA5 compounds (Pawlecki–Vonderheide *et al.* 1997; USEPA 2003p). Since there is no technical reason for the holding times to be different between the HAA5 methods addressed in this rule, EPA proposes to allow a 14–day sample holding time for samples being analyzed by Standard Method 6251 B. This would provide consistency across methods and it would simplify sampling considerations for water systems. EPA is only proposing to standardize the holding time allowed for the samples. Due to differences in the sample preparation (*i.e.*, extraction) procedures in the various methods, the extract holding times cannot be standardized. Laboratories must follow the individual method requirements when determining storage conditions and holding times for the extracts.

EPA Method 552.1 specifies a 28–day holding time for HAA samples. This was based on studies conducted on fortified reagent water samples rather than drinking water samples. Because HAAs have been shown to biodegrade in some distribution systems (Williams *et al.* 1995), EPA believes that some samples may not be stable for 28 days. Today's rule proposes reducing the holding time to 14 days when EPA Method 552.1 is used in order to better ensure sample stability. During the Information Collection Rule, EPA only allowed the 14–day sample holding time for all HAA samples (regardless of the method used to analyze the samples), so laboratories and water systems have demonstrated their capability to implement this method change.

EPA believes that by standardizing the sample holding times allowed in the various HAA5 methods, the burden for laboratories and water systems will be reduced. Sampling considerations will be simplified, because all HAA5 samples will be collected and stored the same way.

8. How Is EPA Clarifying Which Methods Are Approved for Magnesium Determinations?

The Stage 1 DBPR allows systems practicing enhanced softening that cannot achieve the specified level of TOC removal, to meet instead one of several alternative performance criteria, including the removal of 10 mg/L magnesium hardness (as CaCO3) from the source water. Analytical methods for measuring magnesium hardness were not included in the rule, but they were later promulgated in a Methods Update Rule (USEPA 1999b). The December 1999 Methods Rule cited the magnesium methods at § 141.23(k)(1), but it did not identify that these methods were to be used to demonstrate compliance with the alternative performance criteria specified in § 141.135(a)(3)(ii). EPA is proposing to clarify this today by referencing the approved magnesium methods at § 141.131(d)(6) and § 141.135(a)(3)(ii).

9. Which Methods Can Be Used To Demonstrate Eligibility for Reduced Bromate Monitoring?

Today's rule proposes to change the monitoring requirements for demonstrating eligibility to reduce bromate monitoring from monthly to quarterly. The Stage 1 DBPR allows the monitoring to be reduced if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon monthly bromide measurements for one year. Today's rule proposes to change that requirement to a demonstration that the finished water

bromate concentration is <0.0025 mg/L as a running annual average. If this change is implemented, there will no longer be a need for bromide compliance monitoring methods. EPA is proposing additional bromide methods today in order to provide flexibility to the laboratories and water systems in the interim period before the Stage 2 DBPR compliance monitoring requirements becomes effective.

In order to qualify for reduced bromate monitoring, EPA is proposing that the samples must be analyzed for bromate using either EPA Method 317.0 Revision 2.0 (UV/Vis detector), EPA Method 326.0 (UV/Vis detector), or EPA Method 321.8. These three methods can provide quantitative data for bromate concentrations as low as 0.001 mg/L, thus ensuring that a bromate running annual average of <0.0025 mg/L can be reliably demonstrated. Laboratories that analyze samples by these three methods must report quantitative data for bromate concentrations as low as 0.001 mg/L.

Since EPA Methods 317.0 Revision 2.0, 326.0, and 321.8 offer significantly greater sensitivity for bromate analyses, EPA considered whether these should be the only methods approved for bromate compliance monitoring. However, the new methods using postcolumn reactions with UV/Vis detection (EPA Methods 317.0 Revision 2.0 and 326.0) or IC/ICP–MS (EPA Method 321.8) require greater analyst skill than is necessary for the standard ion chromatographic (IC) methodology (EPA Method 300.1 and ASTM Method D 6581–00). They also require instrumentation that may not be currently owned by many laboratories that perform bromate analyses. As a result of these factors and because the standard IC methods are adequate for determining compliance with the bromate MCL that was promulgated as part of the Stage 1 DBPR, EPA decided not to propose withdrawal of the currently approved method (EPA Method 300.1). In addition, EPA decided to propose ASTM Method D 6581–00, because it is equivalent to EPA Method 300.1. EPA strongly encourages laboratories to expand their services by adding the capability to perform analyses using one of the more sensitive methods for bromate. EPA believes that there will be a shift to the more sensitive methods as water systems realize that the analytical capabilities are available for a slightly increased analytical cost. (The ability to determine bromate concentrations as low as 1 µg/L will provide water systems more information concerning the optimization of ozone application to control for bromate formation.)

10. Request for Comments

EPA requests comments on whether the methods proposed today should be approved for compliance monitoring.

EPA solicits comments as to whether standardizing the sample holding times for the HAA5 methods is appropriate. Specifically, should the sample holding time for Standard Method 6251 B be extended from 9 days to 14 days and should the sample holding time for EPA Method 552.1 be shortened from 28 days to 14 days?

EPA requests comments as to whether laboratories should be required to switch to one of the more sensitive bromate methods for compliance monitoring sample analyses. Should EPA Method 300.1 be withdrawn as a compliance monitoring method for bromate and be replaced by EPA Methods 317.0 Revision 2.0, 326.0, and 321.8 which provide reliable data for bromate concentrations as low as 1µg/L?

P. Laboratory Certification and Approval

1. What Is EPA Proposing Today?

EPA recognizes that the effectiveness of today's proposed regulation depends on the ability of laboratories to reliably analyze the regulated disinfection byproducts at the proposed MCLs. EPA has established a drinking water laboratory certification program that States must adopt as part of primacy. Laboratories must be certified in order to analyze samples for compliance with the MCLs. EPA has also specified laboratory requirements for analyses, such as alkalinity, bromide, disinfectant residuals, magnesium, TOC, and SUVA, that must be conducted by parties approved by EPA or the State. EPA's ''Manual for the Certification of Laboratories Analyzing Drinking Water'' (USEPA 1997b) specifies the criteria that EPA uses to implement the drinking water laboratory certification program. Today's proposed rule maintains the requirements of laboratory certification for laboratories performing analyses to demonstrate compliance with MCLs and all other analyses to be conducted by approved parties. It revises the acceptance criteria for performance evaluation (PE) studies and proposes reporting limits for the DBPs as part of the certification program. Today's rule also proposes that TTHM and HAA5 analyses that are performed for the IDSE or system-specific study be conducted by laboratories certified for those analyses.

2. What Changes Are Proposed for the PE Acceptance Criteria?

The Stage 1 DBPR specified that in order to be certified the laboratory must pass an annual performance evaluation (PE) sample approved by EPA or the State using each method for which the laboratory wishes to maintain certification. The acceptance criteria for the DBP PE samples were set as statistical limits based on the performance of the laboratories in each study. This was done because EPA did not have enough data to specify fixed acceptance limits.

Subsequent to the 1998 promulgation, EPA evaluated the results for the EPA Water Supply (WS) PE studies and the Information Collection Rule PE studies to determine if fixed acceptance limits could now be applied. (Fixed limits were used during the Information Collection Rule).

Four different fixed limits (±20%, ±30%, ±40%, and ±50% of the true value) were applied to each analyte in the WS PE study TTHM, HAA5, bromate, and chlorite samples. Successful analysis of the sample was defined as passing all four THMs individually in the TTHM PE sample; passing four of the five HAAs in the HAA5 PE sample; and passing bromate and chlorite individually. The number and percentage of laboratories that successfully passed each study sample were determined for the four fixed limits. These results were then evaluated to determine how narrow the criteria could be set in order to achieve accurate data and also provide enough certified laboratories to meet the capacity needs. Only the last six WS PE Studies administered by EPA (WS36–WS41 conducted between 1996–1998) were used in the final recommendation, because they provided a better estimate of current laboratory capabilities. Table V–19 summarizes the results of this WS PE Study evaluation.

The number of laboratories that analyzed WS TTHM PE samples was significantly larger than for the other DBPs, because a laboratory certification program for TTHM has been in effect since the promulgation of the THM rule in 1979 (USEPA 1979). Most of the analytical methods for TTHM have been in use for many years, and the laboratories are experienced in their use. The Stage 1 DBPR established the first requirements to monitor for the other DBPs and certification was not required until December 2001. Therefore, the WS PE results for HAA5, chlorite, and bromate were from laboratories that were not part of a certification process and the laboratories

were using methods that were relatively new. In addition, the method used for bromate during the WS studies was EPA Method 300.0 which was replaced by EPA Method 300.1 in the Stage 1 DBPR, because Method 300.1 is more sensitive. Laboratories would be expected to have greater success in passing the bromate PE samples using Method 300.1 and the bromate methods that are being proposed in today's rule.

TABLE V–19.—FIXED LIMIT EVALUATION OF WS PE STUDIES 36—41

[Average # and % of labs successfully completing studies]

DBP Sample	±20% of TV		±30% of TV		±40% of TV		±50% of TV	
	#Labs	%Labs	#Labs	%Labs	#Labs	%Labs	#Labs	%Labs
TTHM	609	73	731	88	773	93	788	94
HAA5 [1]	50	37	83	61	103	75	115	84
chlorite	55	63	68	78	72	82	74	85
bromate	45	50	52	57	57	64	60	68

[1] Study 38 was excluded from this analysis, because a valid DCAA true value was not available for the HAA sample.

Based on the results from the analyses described previously, EPA believes it is reasonable to set the TTHM acceptance criteria at ±20% around the study true values. The number of laboratories capable of performing TTHM analyses is large and the results described previously show that in the time frame of 1996–1998, over 70% of the laboratories could successfully meet the ±20% criteria. The PE studies conducted during the Information Collection Rule used the same acceptance criteria (USEPA 1996b).

The data indicate that ±40% are probably the tightest criteria that could be used to evaluate HAA5 PE samples. Setting this criteria balances the need for approval of enough labs to meet monitoring capacity and the need to provide data of acceptable accuracy. The ±40% criteria is consistent with the Information Collection Rule PE study acceptance criteria and it is tighter than the criteria established in the Stage 1 DBPR. During the Information Collection Rule, laboratories that were approved using the ±40% criteria were able to provide accurate and precise data as evidenced by the quality control data collected when the Information Collection Rule samples were analyzed (Fair *et al.* 2002). Of the 1,250 Information Collection Rule samples that were fortified with known amounts of HAAs, the median recovery was 103% and the recoveries ranged between 89% and 120% in 80% of the fortified samples. There were 1,211 Information Collection Rule samples that were analyzed in duplicate and the median relative percent difference for those HAA5 analyses was 4%. Ninety percent of the analyses had RPDs less than 21%. EPA believes laboratories that are certified using the ±40% criteria in PE studies should be capable of performing at a level comparable to the Information Collection Rule laboratories.

EPA believes chlorite PE samples should be evaluated using a ±30% criteria. Over 70% of the laboratories could meet this requirement for chlorite in the WS studies.

The percentage of passing labs for bromate is almost 60% when a ±30% criteria is applied to the WS study data. Since the data do not accurately reflect the bromate methods that are now being used by laboratories, EPA believes a greater percentage of laboratories would pass the bromate PE study using today's technology. Unfortunately, EPA does not have the data to verify this assumption, because EPA no longer conducts PE studies. Even if the assumption is flawed, a 57% acceptance rate would still provide enough certified laboratories to handle the number of bromate samples required for compliance monitoring under the Stage 1 DBPR.

The proposed acceptance criteria are listed in Table V–20.

TABLE V–20.—PROPOSED PERFORMANCE EVALUATION (PE) ACCEPTANCE CRITERIA

DBP	Acceptance limits (percent)	Comments
TTHM		
Chloroform	±20	Laboratory must meet all 4 individual THM acceptance limits in order to successfully pass a PE sample for THMs.
Bromodichloromethane	±20	
Dibromochloromethane	±20	
Bromoform	±20	
HAA5		
Monochloroacetic Acid	±40	Laboratory must meet the acceptance limits for 4 out of 5 of the HAA5 compounds in order to successfully pass a PE sample for HAA5.
Dichloroacetic Acid	±40	
Trichloroacetic Acid	±40	
Monobromoacetic Acid	±40	
Dibromoacetic Acid	±40	
Chlorite	±30	
Bromate	±30	

EPA is also proposing that the PE acceptance limits described previously become effective within 60 days of promulgation of the final rule. This will allow the laboratory certification program to implement the fixed limits as soon as possible. Laboratories that were certified under the Stage 1 PE acceptance criteria would be subject to the new criteria when it is time for them to analyze their annual DBP PE samples(s).

3. What minimum reporting limits are being proposed?

The Consumer Confidence Reports Rule (USEPA 1998i) requires that all detected regulated contaminants be reported in the annual reports, but detection is not defined for the DBP contaminants. This rule addresses the deficiency by proposing reporting limits for the regulated DBPs.

Laboratories that analyze compliance samples must be able to reliably measure the DBPs at concentrations below the MCL. Laboratories must also be able to measure the individual TTHM and HAA5 compounds at levels that are much lower than the MCLs for these compound classes, because the MCLs are based on the sum of the individual compound concentrations.

Historically, EPA has used practical quantitation levels to estimate the lowest concentration at which laboratories can be expected to provide data within specified limits of precision and accuracy during routine operating conditions (USEPA 1985). The estimates are based on PE data, if available, or are set at five or ten times the method detection level.

In today's rule, EPA is proposing an alternate approach for establishing the lowest concentration for which laboratories are expected to report quantitative data for DBPs. The approach is based on a unique data set from the Information Collection Rule. Laboratories were required to meet specific quality control criteria when they analyzed samples for the Information Collection Rule. The rule established a regulatory minimum reporting level (MRL) for each analyte and laboratories were required to demonstrate they could accurately measure at these concentrations each time a set of samples was analyzed. The regulatory MRLs were based on recommendations from experts who were experienced in DBP analyses and were set at concentrations for which most laboratories were expected to be able to meet the precision and accuracy criteria under normal operating conditions. Most samples were also expected to contain concentrations greater than the specified MRLs.

EPA evaluated the data from the Information Collection Rule to determine if the laboratories were able to reliably measure down to the required MRL concentrations. Precision and accuracy data from the calibration check standards prepared at the MRL concentrations (listed in Table V–21) were examined. The data indicated most laboratories were able to provide quantitative data for samples with these concentrations.

Because laboratories demonstrated the capability to meet the Information Collection Rule MRLs, EPA believes it is reasonable to expect similar performance during the analyses of DBP compliance monitoring samples. In today's rule, EPA is proposing to incorporate MRL requirements into the laboratory certification program for DBPs and to use regulatory MRLs as the minimum concentrations that must be reported as part of the Consumer Confidence Reports (§ 141.151(d)).

TABLE V–21.—PROPOSED MINIMUM REPORTING LEVEL (MRL) REQUIREMENTS

DBP	MRL (µg/L)		Comments
	Information collection rule	Proposed stage 2 DBPR	
TTHM			
Chloroform	1.0	1.0	
Bromodichloromethane	1.0	1.0	
Dibromochloromethane	1.0	1.0	
Bromoform	1.0	1.0	
HAA5			
Monochloroacetic Acid	2.0	2.0	
Dichloroacetic Acid	1.0	1.0	
Trichloroacetic Acid	1.0	1.0	
Monobromoacetic Acid	1.0	1.0	
Dibromoacetic Acid	1.0	1.0	
Chlorite	20.0	200.0	
Bromate	5.0	5.0 or 1.0	Laboratories that use EPA Methods 317.0 Revision 2.0, 326.0, or 321.8 must meet a 1.0 µg/L MRL for bromate.

As part of the request for certification, EPA is proposing to require laboratories to demonstrate they can reliably measure concentrations at least as low as the ones listed in Table V–21 in order to be certified for those parameters. This would mean that the calibration curve must encompass the proposed regulatory MRL concentration and that the laboratory must verify the accuracy of the calibration curve at the lowest concentration for which quantitative data are reported by analyzing a calibration check standard at that concentration prior to analyzing each batch of samples. (Laboratories would analyze a check standard at the specified MRL concentration daily or each time samples are analyzed.) The measured concentration for this check standard must be within ±50% of the expected value. Laboratories may choose to report quantitative data at concentrations lower than the proposed regulatory MRLs as long as the required accuracy criteria (±50% of the expected value) is met by daily analyzing standards at the lowest reporting limit chosen by the laboratory.

Laboratories were not given the opportunity to report concentrations lower than the specified MRLs during the Information Collection Rule. Some laboratories indicated they have met the precision and accuracy criteria at lower concentrations, so EPA believes that each laboratory should have the flexibility to continue using its own reporting limits as long as the laboratory MRLs are not higher than the regulatory ones proposed in this rule. This flexibility would minimize the cost of implementing the regulatory MRL requirements, because the laboratory would not have to make changes in its established quality control procedures unless its procedures are less stringent than those being proposed today. Requiring a laboratory to adopt regulatory MRLs that are higher than the laboratory reporting limits currently in

use offers no advantage and could increase analytical costs. The capability to provide quantitative data at the laboratory's MRL or the regulatory MRL would need to be demonstrated on a daily basis by analyzing a check standard at that concentration and by achieving a recovery in the range of 50 to 150%.

The proposed regulatory MRL for MCAA is 2.0 µg/L based on the Information Collection Rule performance data. However, MCAA was not present at concentrations higher than this in more than half of the samples analyzed for HAAs during the Information Collection Rule (USEPA 2003o). Some laboratories reported that they could have provided quantitative data for MCAA down to concentrations as low as 1.0 µg/L.

EPA is proposing a regulatory MRL for chlorite that is much higher than can easily be achieved using the approved or proposed methods. The MRL specified during the Information Collection Rule was 20. µg/L and laboratories were able to successfully obtain quantitative data at that level. However, in the context of this rule, EPA believes that requiring laboratories to verify their calibration curves down to 20. µg/L each time samples are analyzed is unnecessary. This is because chlorite analyses are only performed on samples from water plants that use chlorine dioxide and most of the applied chlorine dioxide is converted to chlorite, so the concentrations that are expected in most compliance monitoring samples will be much higher than 20. µg/L. (The Information Collection Rule data showed a median chlorite concentration of 380 µg/L in the finished water and 333 µg/L as the distribution system average in systems using chlorine dioxide (USEPA 2003o).) EPA is proposing a regulatory MRL of 200. µg/L for chlorite, because most of the samples are expected to contain concentrations higher than 200. µg/L. The MCL for chlorite is 1.0 mg/L (1,000 µg/L). EPA recognizes that setting the regulatory MRL for chlorite based on the concentrations expected to be found in the samples rather than the sensitivity of the analytical method is inconsistent with the approach taken for other compounds in this rule. Nevertheless, EPA believes setting the MRL based on occurrence information is appropriate because it will not compromise the compliance data. Water systems would have the option of requiring that laboratories establish a lower reporting limit when their samples are analyzed and EPA would encourage this in cases in which the samples consistently contain chlorite concentrations that are <200. µg/L. If a lower reporting limit is used, then the laboratory will be required to meet the precision and accuracy requirements at that lower concentration by daily successfully analyzing a check standard at the laboratory reporting limit concentration prior to analyzing compliance samples. EPA believes very few water systems will request more sensitive chlorite analyses, because their samples won't have low enough concentrations to require it.

EPA is proposing two regulatory MRLs for bromate analyses in today's rule. This is because the traditional ion chromatographic (IC) methods using conductivity detection (EPA Method 300.1 and ASTM Method 6581–00) are only capable of quantitating down to 5.0 µg/L while the new IC methods using either post column reactions with UV/Vis detection (EPA Methods 317.0 Revision 2.0 and 326.0) or IC followed by ICP–MS detection (EPA Method 321.8) can reliably quantitate bromate concentrations as low as 1.0 µg/L. EPA believes it is appropriate to set the regulatory MRL based on the capability of the method. (EPA has published detection limits for inorganic contaminants based on method capability (§ 141.23(a)(4)(i)), so the approach proposed today is consistent with previous regulations.) If the regulatory MRL is based on the most sensitive method, then the routine IC methods could no longer be used even though they are adequate for demonstrating compliance with the bromate MCL. If the regulatory MRL is set using the least sensitive method, then the feasibility for reduced bromate monitoring based on a running annual average of <0.0025 µg/L (<2.5 µg/L) would not be adequately demonstrated based on data reported with a reporting limit of 5.0 µg/L.

EPA is proposing MRLs as part of the certification process. Laboratories would be required to demonstrate they can reliably quantitate at the specified MRL concentration when their current DBP certification is subject to renewal or if they are applying for certification for DBP methods for the first time. (Demonstration would be accomplished by providing precision and accuracy data from the analyses of check standards at or below the regulatory MRL concentration over a several day period. The laboratory's standard operating procedure for HAA5 analyses would include a requirement to daily meet the MRL accuracy criteria for a check standard at or below the regulatory MRL concentration.) Although ensuring laboratories can meet the regulatory MRLs is a new certification requirement, EPA does not believe this significantly increases the time required to review a laboratory prior to certification. Each DBP method requires the laboratory to generate a similar set of data at a higher concentration and to meet specific accuracy and precision criteria as part of the initial demonstration of laboratory capability to perform the method; review of the MRL data set will be comparable to what is already being done. This new requirement will ensure that laboratories can reliably analyze samples that contain low concentrations of DBPs on an on-going basis.

EPA is also proposing to require the regulatory MRLs be used for compliance reporting by the Public Water Systems. Finally, the regulatory MRLs would be used when Public Water Systems inform customers of their water quality relative to DBP concentrations in the annual Consumer Confidence Reports.

4. What Are the Requirements for Analyzing IDSE Samples?

EPA is proposing that the TTHM and HAA5 samples collected for the Initial Distribution System Evaluations (IDSE) and the system specific studies conducted in lieu of IDSEs be analyzed by certified laboratories. EPA recognizes that this will require additional laboratory capacity during the time period in which these studies are conducted. The largest challenge will be in developing the capacity to analyze the samples for the water systems that must complete the studies, analyze the data, and recommend Stage 2 DBP sampling sites within two years of the promulgation date of the rule. However, EPA believes commercial laboratories, in particular, will be able to expand their capacity to meet the demand based in the information presented below.

Assuming no waivers or system-specific studies, the number of IDSE samples is estimated to be between 14,000 and 21,000 per month in the first round of IDSE monitoring, depending on whether the monitoring requirements are based on population or number of treatment plants, respectively. Laboratories should easily be able to accommodate this increase in TTHM samples, because experience performing TTHM analyses is spread across a large number of laboratories. Hundreds of laboratories have been certified for TTHM analyses, since certification was first required in 1979. There were close to 600 laboratories certified to perform TTHM analyses in 1991. In the 1996–1998 period, there were over 800 laboratories participating in the PE studies for TTHMs and 600 of those laboratories were capable of meeting the

TTHM PE acceptance criteria proposed in today's rule. Many water system laboratories are certified to perform TTHM analyses and will be able to incorporate the IDSE TTHM samples from their systems into the laboratory schedule. It is reasonable to expect that commercial laboratories will be able to handle the remainder of the TTHM samples. (EPA does not have a current estimate of the number of laboratories certified to perform TTHM analyses. However, if the number of IDSE samples from large systems was evenly spread over the 600 laboratories that were certified in 1991, this would be less than 40 additional samples per month for each laboratory. Analysis of 40 TTHM samples would involve less than two days of analyst and instrument time which does not seem unreasonable for commercial laboratories to accommodate.)

Analyses of the HAA5 samples will present a greater challenge, because certification is relatively new for this measurement. EPA anticipates that most of the HAA5 samples will be analyzed by commercial and State laboratories, because the methods are more complex than the TTHM analyses and monitoring was not widely required until January 2002. Laboratories were not required to be certified to perform HAA5 analyses until January 2002. However, the PE Study results from 1996–1998 indicate that over 130 laboratories were performing HAA5 analyses during that time frame and approximately 100 of those laboratories were capable of meeting the HAA5 PE acceptance criteria proposed in today's rule. Ninety-four laboratories were approved to perform HAA analyses during the Information Collection Rule; twenty-seven of them were commercial laboratories and nine were State laboratories. EPA anticipates that large commercial laboratories already certified to perform HAA5 analyses will recognize this market potential and add staff and instrumentation to accommodate the increased demand.

Most systems serving <10,000 people will not begin their IDSE studies until after the large systems have completed their studies. Even though the potential number of samples is greater, the small systems have two additional years in which to complete their studies, so there is more opportunity to schedule the sampling in such a manner that laboratory capacity is maintained. The laboratory capacity should be readily available by the time analyses of these samples are required.

5. Request for Comments

EPA requests comments concerning the appropriateness of the proposed PE acceptance criteria.

EPA solicits comments as to whether an MRL lower than 2 μg/L is feasible for MCAA and if so, what should that MRL concentration be?

EPA requests comments concerning whether the MRL for chlorite should be based on the sensitivity of the method (*i.e.*, 20. μg/L) or on the expected concentration range of the samples (*i.e.*, 200. μg/L).

EPA solicits comments concerning which MRL approach should be considered for bromate. Specifically, should EPA set the MRL based on the capability of the method which would mean that two different MRLs are defined or should one MRL be established based on either the least or most sensitive method?

EPA requests comments concerning the appropriateness of the MRL certification requirements and whether additional certification requirements should be considered.

EPA solicits comments on the availability of laboratory capacity to perform TTHM and HAA5 analyses for IDSE studies.

VI. State Implementation

This section describes the regulations and other procedures and policies States would have to adopt to implement the Stage 2 DBPR, if finalized as proposed today. States must continue to meet all other conditions of primacy in 40 CFR part 142.

The SDWA establishes requirements that a State or eligible Indian Tribe must meet to assume and maintain primary enforcement responsibility (primacy) for its public water systems. These SDWA requirements include: (1) adopting drinking water regulations that are no less stringent than Federal drinking water regulations, (2) adopting and implementing adequate procedures for enforcement, (3) keeping records and making reports available on activities that EPA requires by regulation, (4) issuing variances and exemptions (if allowed by the State), under conditions no less stringent than allowed under the SDWA, and (5) adopting and being capable of implementing an adequate plan for the provision of safe drinking water under emergency situations. General rule implementation activities include notifying systems of rule requirements, updating internal and external databases, providing training and technical assistance, and reviewing (and, if necessary, approving) monitoring and other reports and plans.

To receive primacy for the Stage 2 DBPR, when final, States will be required to adopt the following new or revised requirements under their own regulations:

—Section 141.33(a) and (f), Record maintenance;
—Section 141.64, MCLs for disinfection byproducts;
—Subpart L, Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors;
—Subpart O, Consumer Confidence Reports;
—Subpart Q, Public Notification of Drinking Water Violations;
—Subpart U, Initial Distribution System Evaluation; and
—Subpart V, Stage 2B Disinfection Byproducts Requirements.

In addition to adopting basic primacy requirements specified in 40 CFR part 142, States are required to address applicable special primacy conditions. Special primacy conditions pertain to specific regulations where implementation of the rule involves activities beyond general primacy provisions. The purpose of these special primacy requirements in today's proposal is to ensure State flexibility in implementing a regulation that: (1) Applies to specific system configurations within the particular State and (2) can be integrated with a State's existing Public Water Supply Supervision Program. States must include these rule-distinct provisions in an application for approval or revision of their program. These primacy requirements for implementation flexibility are discussed in the following section.

A. State Primacy Requirements for Implementation Flexibility

To ensure that a State program includes all the elements necessary for an effective and enforceable program within that State under today's rule, a State primacy application must include a description of how the State will review IDSE reports and approve new or revised monitoring sites for long-term DBP compliance monitoring. If a State will use the authority to grant blanket waivers for IDSE requirements to very small systems, it must comply with the special primacy provision for granting such waivers. A State that intends to use the authority for addressing consecutive system monitoring requirements must include a description of how it intends to implement that authority. A State primacy application must also include a description of how the State will require systems to identify significant excursions.

B. State Recordkeeping Requirements

The current regulations in § 142.14 require States with primacy to keep various records, including analytical results to determine compliance with MCLs, MRDLs, and treatment technique requirements; system inventories; State approvals; enforcement actions; and the issuance of variances and exemptions. The proposed Stage 2 DBPR requires that the State keep records related to any decisions made pursuant to the requirements in subparts U and V, plus copies of IDSE reports submitted by systems until those reports are reversed or revised in their entirety. Today's proposal also includes a revision to the State recordkeeping requirements that requires States to maintain records of DBP monitoring plans submitted by public water systems until superceded by a new system monitoring plan.

C. State Reporting Requirements

EPA currently requires in § 142.15 that States report information such as violations, variance and exemption status, and enforcement actions to EPA. The proposed Stage 2 DBPR will not add any additional reporting requirements.

D. Interim Primacy

On April 28, 1998, EPA amended its State primacy regulations at 40 CFR 142.12 to incorporate the new process identified in the 1996 SDWA Amendments for granting primary enforcement authority to States while their applications to modify their primacy programs are under review (63 FR 23362) (USEPA 1998j). The new process grants interim primary enforcement authority for a new or revised regulation during the period in which EPA is making a determination with regard to primacy for that new or revised regulation. This interim enforcement authority begins on the date of the complete primacy application submission or the effective date of the new or revised State regulation, whichever is later, and ends when EPA makes a final determination. However, this interim primacy authority is only available to a State that has primacy for every existing NPDWR in effect when the new regulation is promulgated.

As a result, States that have primacy for every existing NPDWR already in effect may obtain interim primacy for this rule, beginning on the date that the State submits the application for this rule to EPA, or the effective date of its revised regulations, whichever is later. In addition, a State which wishes to obtain interim primacy for future NPDWRs must obtain primacy for this rule.

E. IDSE Implementation

As discussed in section V.J., many systems will be performing certain IDSE activities prior to their State receiving primacy. During that period, EPA will act as the primacy agency, but will consult and coordinate with individual States to the extent practicable and to the extent that States are willing and able to do so. In addition, prior to primacy, States may be asked to assist EPA in identifying and confirming systems that are required to comply with certain IDSE activities. Once the State has received primacy, it will become responsible for IDSE implementation activities.

F. State Burden

Section VII of today's document contains an analysis of the burden that this rule will place on States in receiving primacy and implementing this rule.

G. Request for Comment

EPA requests comment on the State implementation requirements including the special primacy requirements.

VII. Economic Analysis

This section summarizes the Health Risk Reduction and Cost Analysis (HRRCA) in support of the Stage 2 DBPR as required by section 1412(b)(3)(C) of the 1996 SDWA. In addition, under Executive Order 12866, Regulatory Planning and Review, EPA must estimate the costs and benefits of the Stage 2 DBPR in an Economic Analysis (EA). EPA has prepared an EA to comply with the requirements of this order and the SDWA Health Risk Reduction and Cost Analysis (HRRCA) (USEPA 2003i). SDWA (Section 1412 (b)(4)(C)) also requires the Agency to determine that the benefits of the promulgated rule would justify the costs of compliance. The proposed EA is available in the docket and is also published on the Agency's web site: *http://www.epa.gov/edocket.*

It is important to note that the regulatory options considered by the Agency are the direct result of an Advisory Committee process that involved various drinking water stakeholders. More information on this process is discussed in sections II and V of today's preamble.

In order to analyze both benefits and costs of the proposed rule and other regulatory alternatives considered by the Agency, EPA relied on several data sources to understand DBP occurrence, an analytical model to predict treatment changes and changes in DBP occurrence, and input and analysis from expert technical review panels to assist with model validation and technology selection. A brief description of the process is outlined in section VII.E. but a more detailed explanation of the analytical process is in the EA for the proposed Stage 2 DBPR (USEPA 2003i).

The Stage 2 DBPR economic impact analysis uses a model, (referred to as the Surface Water Analytical Tool or SWAT) and information collected under the Information Collection Rule to make predictions about finished water and delivered water DBP levels, as well as predicting technology changes necessary for systems to comply with rule alternatives. Specifically, SWAT estimates post-Stage 1 DBPR (pre-Stage 2) and post-Stage 2 DBPR DBP levels and likely technology choices by the industry to achieve compliance. For smaller systems and for all ground water systems, expert panels considered occurrence data and current treatment technology specific to these systems and used this information to predict technology treatment changes that may result from this proposed rule.

Both benefits and costs are presented as annualized values. The process allows comparison of cost and benefit streams that are variable over a given time period. The time frame used for both benefit and cost comparisons is 25 years; approximately five years account for rule implementation and 20 years for the average useful life of the equipment. The Agency uses social discount rates of both three percent and seven percent to calculate present values from the stream of benefits and costs and also to annualize the present value estimates. The EA for the proposed rule (USEPA 2003i) also shows the undiscounted stream of both benefits and costs over the 25 year analysis period.

A. Regulatory Alternatives Considered by the Agency

Today's proposed Stage 2 DBPR represents the second of a set of rules that address public health risks from DBPs. The Stage 1 DBPR was promulgated to decrease average exposure to DBPs and associated health risks by focusing compliance on MCLs based on average concentrations of TTHM and HAA5 within the distribution system. Today's proposed Stage 2 DBPR further reduces exposure to chlorinated DBPs by basing compliance on the LRAA of TTHM and HAA5 concentrations at each sampling point within the distribution system. Section V illustrated the LRAA concept and differences in the two compliance calculation methodologies. In addition,

section V provided a comparison of the regulatory options considered. This subsection will summarize the comparison of options and subsection VII.B. will outline the exposure analyses that led EPA to propose the preferred option and will present the predicted national occurrence distributions that were used to quantify predicted exposure reductions from today's proposed rule. A detailed discussion of EPA's exposure analyses can be found in the *Economic Analysis for the Stage 2 DBPR* (USEPA 2003i).

There are two components in the Agency's M–DBP regulatory development process that are particularly relevant to evaluation of options discussed in today's proposal: (1) the data synthesis and evaluation resulting from the Information Collection Rule; and (2) the analysis and recommendations of the M–DBP Advisory Committee. Data from the Information Collection Rule were used with the SWAT model to estimate the national distributions of DBP occurrence. The Advisory Committee considered several questions during the negotiation process, including:

—What are the remaining health risks after implementation of the Stage 1 DBPR?

—What are approaches to addressing these risks?

—What are the risk tradeoffs that need to be considered in evaluating these approaches?

—How do the estimated costs of the approach compare to reductions in peak occurrences and overall exposure for that approach? How does this measure (ratio of costs to exposure reduction) compare among the approaches?

The Advisory Committee considered the DBP occurrence estimates and characteristics of these distributions to be important in understanding the nature of public health risks. Although the Information Collection Rule data were collected prior to promulgation of the Stage 1 DBPR, the data support the concept that a system could be in compliance with the Stage 1 DBPR MCLs of 0.080 mg/L and 0.060 mg/L for TTHM and HAA5, respectively, and yet have points in the distribution system with either periodically or consistently higher DBP levels (see section IV).

Based on these findings, and in order to address disproportionate risk within distribution systems, the Advisory Committee discussed an array of options that would base compliance on exposure at specific sampling locations rather than on average exposures for the entire distribution system. These included options for determining compliance as an LRAA (requiring systems to meet the MCL at individual sampling locations as a running annual average) or as absolute maximums (requiring that no samples taken exceed the MCL concentration), in addition to a combination of these approaches. For example, the Advisory Committee reviewed the exposure reductions for a number of approaches based on different LRAA and absolute maximum incremental MCL levels, and combinations of an LRAA approach with a companion absolute maximum for a variety of different concentration levels. The Advisory Committee also evaluated the associated technology changes and costs for these alternatives. In the process of narrowing down alternatives based on this vast amount of information, the Advisory Committee primarily focused on four types of alternative rule scenarios illustrated next.

Preferred Alternative

—Long-term MCLs of 0.080 mg/L for TTHM and 0.060 mg/L for HAA5 as LRAAs.

—Bromate MCL remaining at 0.010 mg/L.

Alternative 1

—Long-term MCLs of 0.080 mg/L for TTHM and 0.060 mg/L for HAA5 as LRAAs.

—Bromate MCL of 0.005 mg/L.

Alternative 2

—Long-term MCLs of 0.080 mg/L for TTHM and 0.060 mg/L for HAA5 as absolute maximums for individual measurements.

—Bromate MCL remaining at 0.010 mg/L.

Alternative 3

—Long-term MCLs of 0.040 mg/L for TTHM and 0.030 mg/L for HAA5 as an RAA.

—Bromate MCL remaining at 0.010 mg/L.

Figure VII–1 shows how compliance would be determined under each of the TTHM/HAA5 alternatives described and the Stage 1 DBPR for a hypothetical large surface water system. This hypothetical system has one treatment plant and measures TTHM in the distribution system in four locations per quarter (the calculation methodology shown would be the same for HAA5). Ultimately, the Advisory Committee recommended the Preferred Alternative in combination with an IDSE requirement.

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Figure VII-1. Calculations of Compliance for the Regulatory Alternatives Considered

Basis of Compliance

Violation of MCL

Stage 1 DBPR
TTHM MCL = 80 µg/L measured as an RAA
No exceedance of MCL

	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Qtrly Avg.
Q1	100	40	50	50	60
Q2	75	50	40	100	66
Q3	55	45	55	110	66
Q4	60	55	40	75	58
				RAA	63

Preferred Stage 2 DBPR Alternative and Alternative 1*
TTHM MCL = 80 µg/L measured as an LRAA
LRAA at Location 4 exceeds MCL

	Loc. 1	Loc. 2	Loc. 3	Loc. 4
Q1	100	40	50	50
Q2	75	50	40	100
Q3	55	45	55	110
Q4	60	55	40	75
LRAA	73	48	46	84

*The Preferred Alternative and Alternative 1 have the same TTHM MCL; they differ only in regard to the bromate MCL.

Alternative 2
TTHM MCL = 80 µg/L measured as a single highest value
Three samples at Locations 1 and 4 exceed MCL

	Loc. 1	Loc. 2	Loc. 3	Loc. 4
Q1	100	40	50	50
Q2	75	50	40	100
Q3	55	45	55	110
Q4	60	55	40	75

Alternative 3
TTHM MCL = 40 µg/L measured as an RAA
RAA exceeds MCL

	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Qtrly Avg.
Q1	100	40	50	50	60
Q2	75	50	40	100	66
Q3	55	45	55	110	66
Q4	60	55	40	75	58
				RAA	63

The Preferred Alternative, coupled with the IDSE's refocused sampling (see section V), was recommended by the Advisory Committee because this approach addresses the objective of reducing potential adverse reproductive and developmental health risks. It achieves this objective by controlling peak TTHM and HAA5 concentrations at sites throughout the distribution system without compromising microbial protection. At the same time, it will only require a few higher risk systems to face the cost of employing additional advanced technologies. While this alternative controls the occurrence of consistently high DBP levels, it is still possible that individual samples could exceed the MCL, and consumers could thus be exposed to higher DBP concentrations for some portion of the year. In addition, this alternative will further reduce average DBP levels as systems make changes to reduce these peak concentrations. Subsection VII.B. will show how today's proposed requirements are predicted to decrease exposure risks. The benefits and costs of each alternative are presented in subsections VII.C. through VII.E.

B. Rationale for the Proposed Rule Option

DBP concentrations can be highly variable throughout a distribution system and over time at the same location in a distribution system (USEPA 2003o). The determination of compliance with an RAA under the Stage 1 DBPR requires a system to average all of their spatially-distributed samples collected in one quarter of the year and to combine this average concentration with the three prior quarterly averages determined by the system. Thus, the RAA-based standard allows utilities to average spatial and temporal variability in TTHM and HAA5 samples to determine compliance, as shown in figure VII–1. This allows lower results found, perhaps, nearer a water treatment plant to offset higher results that might be found at the ends of the distribution system. In addition, systems with multiple plants of differing water quality (either multiple surface water plants or surface and ground water plants) may have particular plant distribution system sampling locations with high DBPs that are offset by lower measurements observed in the portion of the distribution network served by other plants.

Under the Stage 2 DBPR proposed today, TTHM and HAA5 MCLs will remain the same, but compliance will be based on a locational running annual average (LRAA) for each of the sampling sites in the distribution system. In addition, the IDSE requirement will increase the probability that the compliance sampling sites will capture the highest DBP levels in the distribution system. Thus, the reduction in DBP exposure from the Stage 1 DBPR to the proposed Stage 2 DBPR results from the revised requirements for compliance calculations combined with new compliance monitoring sites.

EPA expects the Stage 2 DBPR, as proposed, will result in health benefits by reducing the estimated health risks associated with the following exposures:

—Individual TTHM/HAA5 occurrences significantly exceeding 0.080 mg/L and 0.060 mg/L;
—Chronic exposures at individual distribution system locations that average more than 0.080 mg/L and 0.060 mg/L;
—Chronic exposures at all locations in the distribution system by reducing overall system average DBP concentrations; and
—Chronic and peak exposures in consecutive systems (systems that purchase treated water from another system).

Under the Stage 1 DBPR, high DBP concentrations at specific locations in the distribution system could be masked by spatial and temporal averaging. As discussed in subsection VII.C, short term exposures resulting from these high concentrations may be of concern in regard to potential adverse reproductive and developmental health effects. Chronic exposures at locations having repeated high DBP concentrations may be of concern for cancer endpoints as well. The remainder of this subsection will illustrate how today's proposed rule is expected to reduce ''peak'' and average exposures to address these health concerns.

1. Reducing Peak Exposure

EPA used Information Collection Rule data to estimate the reduction in exposure to DBP peaks resulting from the Stage 2 DBPR. Because the Information Collection Rule data represent pre-Stage 1 DBPR conditions, subsets of those plants already in compliance with the Stage 1 DBPR and Stage 2 DBPR were used to estimate pre-Stage 2 and post-Stage 2 occurrence respectively. By comparing these subsets of data, EPA estimated that approximately 69% of plant locations having TTHM peaks greater than 0.080 mg/L remaining after the Stage 1 DBPR could be reduced through implementation of the Stage 2 DBPR. EPA conducted this additional peak reduction analysis only for TTHMs and not HAA5s because current epidemiological data only considers the association between TTHM exposure and adverse health impacts (see subsection VII.C). Additional information on reduction of peak exposures can be found in section 5.4.1 of the Economic Analysis (USEPA 2003i). EPA recognizes that temporal and spatial variability in systems that need to install treatment to comply with the Stage 1 DBPR may be different than in those that do not, perhaps due to low source water TOC concentrations. However, EPA does not have data representing DBP levels post-Stage 1. EPA requests comment on its approach of using data from plants in compliance with Stage 1 DBPR requirements without implementing additional treatment as a proxy for post-Stage 1 DBP levels.

2. Reducing Average Exposure

To quantify the benefits of today's proposed rule, EPA compared predicted post-Stage 2 DBPR occurrence and compared this to the predicted baseline concentrations after the Stage 1 DBPR to determine reductions in exposure resulting from the Stage 2 DBPR. The SWAT model was the main tool used in this analysis. SWAT results were used directly for medium and large surface water systems. For small surface water systems and all ground water systems. Adjustments were made to the SWAT results to account for different percentages of plants changing technology to meet Stage 2 DBPR requirements. The Economic Analysis for today's proposed rule (USEPA 2003i) provides an in-depth discussion of this analysis.

Table VII–2 shows the reduction in average plant-level TTHM and HAA5 concentrations estimated to result from the Stage 2 DBPR. EPA expects average DBP levels to decline by 4.7 percent for all surface water systems. DBP averages are expected to decline by 2.2 percent for all large ground water systems and 1.7 percent for all small ground water systems. These estimates include both systems already in compliance with the Stage 2 DBPR and systems making treatment changes to comply with the rule. The Agency uses these national average reductions to quantify the primary benefit of this rule which is the estimated range of reduction in bladder cancer cases nationally. Systems making treatment changes to comply with the rule will experience significantly greater estimated average reductions than the national average for all systems. Chapter 5 of the EA (USEPA 2003i) includes a more detailed discussion of this analysis.

TABLE VII–2.—REDUCTION IN AVERAGE DBP LEVELS FROM PRE-STAGE 2 TO POST-STAGE 2 (ALL PLANTS)

Source water	System size (population served)	Average plant-level TTHM concentrations (µg/L)			Average plant-level HAA5 concentrations (µg/L)		
		Pre-stage 2	Post-stage 2	Percent reduction	Pre-stage 2	Post-stage 2	Percent reduction
SW	≤ 10,000	35.5	33.8	4.7	25.0	23.8	4.7

TABLE VII–2.—REDUCTION IN AVERAGE DBP LEVELS FROM PRE-STAGE 2 TO POST-STAGE 2 (ALL PLANTS)—Continued

Source water	System size (population served)	Average plant-level TTHM concentrations (μg/L)			Average plant-level HAA5 concentrations (μg/L)		
		Pre-stage 2	Post-stage 2	Percent reduction	Pre-stage 2	Post-stage 2	Percent reduction
	> 10,000	35.5	33.8	4.7	25.0	23.8	4.7
GW	≤ 10,000	16.0	15.6	2.2	8.5	8.3	2.2
	10,000	16.2	16.0	1.7	8.6	8.5	1.7

Note: Due to rounding, percent reductions calculated from data in the tables may differ from the actual values presented here
Source: Economic Analysis (USEPA 2003i) Exhibit 5.22b

C. Benefits of the Proposed Stage 2 DBPR

As described previously, the Stage 2 DBPR is expected to reduce both peak and long-term exposure to DBPs, thereby reducing the potential risk of both adverse reproductive and developmental health effects and bladder cancer. As discussed in section III of this preamble, both epidemiological and toxicological evidence suggest a possible increased risk for pregnant women and their fetuses who are exposed to DBPs in drinking water. The Agency believes and the Advisory Committee concluded that the weight of evidence is enough to take regulatory action to help address the potential reproductive and developmental endpoints in the Stage 2 DBPR. However, data are not available at this time to conduct a traditional quantitative risk assessment. Instead, the benefits from reducing most reproductive and developmental risks are discussed qualitatively in this preamble. For one endpoint, fetal loss, the Agency provides an illustrative calculation to explore the implications of some published results for potential benefits associated with reducing fetal losses that may be attributable to certain DBP exposures.

In addition to achieving greater protection from possible adverse reproductive and developmental health effects, the rule may provide additional reduction in bladder cancer cases as the overall level of DBPs in distribution systems nation-wide decreases. The Agency estimated and monetized the potential benefits from reduction in bladder cancers resulting from this rule. Reductions in bladder cancer (including both fatal and non-fatal cases) provide a range of annualized present value benefits from $0 to $986 million using a three percent discount rate ($0 to $854 million using a seven percent discount rate) depending on the risk level assumed. These estimates are based on the assumption that the percent reductions in TTHM and HAAs will correspond to the percent reductions in bladder cancer risk attributed to populations receiving chlorinated drinking water as indicated by various epidemiology studies (USEPA 1998a). Zero is included in this range because of the inconsistent evidence regarding the association between exposure from DBPs and cancer.

Other regulatory alternatives considered by the FACA committee and the Agency could provide greater benefits but with greater technology cost implications. Table VII–3 presents benefits estimates of the proposed Stage 2 DBPR using two population attributable risks derived from published studies (2% and 17%) and assuming there is a causal link between DBP exposure and bladder cancer. In subsection VII.G., Table VII–14 shows potential benefits of all regulatory alternatives considered by the Agency.

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Table VII-3. Benefits Summary for the Stage 2 DBPR, Preferred Regulatory Alternative (Millions, 2000$)

Adverse Reproductive and Developmental Health Effects Avoided					
Causality has not been established, and numbers and types of cases avoided, as well as the value of such cases, were not quantified in the primary benefits analysis. Given the numbers of women of child bearing age exposed (58 million), the evidence indicates that the number of cases and the value of preventing those cases could be significant. See results of the illustrative calculation in VII.C.1.					
Number and Value of Estimated Bladder Cancer Cases Avoided [1]					
Causality has not been established; however, the weight of evidence supports PAR estimates of potential benefits. Zero is within the range of potential benefits, but evidence indicates that both the number of cases and the value of preventing those cases could be significant (see below).					
PAR	**Annual Average Cases Avoided**	**Discount Rate, WTP for Non-Fatal Cases**	**Annualized Benefits of Cases Avoided (90 % Confidence Bounds [2])**		
			Value of Fatal Cases Avoided	**Value of Non-Fatal Cases Avoided**	**Value of Total Cases Avoided**
2 %	20.9	3 %, Lymphoma	$42.8 ($7.1 - 97.4)	$70.2 ($10.9 - 160.7)	$113.0 ($17.9 - 258.2)
		7 % Lymphoma	$37.1 ($6.1 - 84.4)	$60.8 ($9.4 - 139.3)	$97.9 ($15.6 - 223.7)
		3 % Bronchitis	$42.8 ($7.1 - 97.4)	$12.1 ($5.4 - 22.2)	$54.9 ($12.5 - 119.6)
		7 % Bronchitis	$37.1 ($6.1 - 84.4)	$10.5 ($4.7 - 19.2)	$47.6 ($10.9 - 103.7)
17 %	182.2	3 %, Lymphoma	$373.8 ($61.8 - 850.3)	$612.4 ($94.8 - 1,403.1)	$986.2 ($156.6 - 2,253.4)
		7 % Lymphoma	$323.9 ($53.6 - 736.7)	$530.6 ($82.1 - 1,215.6)	$854.4 ($135.8 - 1.952.3)
		3 % Bronchitis	$373.8 ($61.8 - 850.3)	$105.5 ($47.5 - 193.5)	$479.3 ($109.3 - 1.043.7)
		7 % Bronchitis	$323.9 ($53.6 - 736.7)	$91.6 ($41.2 - 167.9)	$415.5 ($94.9 - 904.6)
Other Health Benefits					
Qualitative assessment indicates that the value of other health benefits could be positive and significant.					
Non-Health Benefits					
Qualitative assessment indicates that the value of non-health benefits could be positive.					

1. Based on TTHM as indicator. EPA recognizes that the lower bound estimate may be as low as zero since causality has not yet been established between exposure to chlorinated water and bladder cancer.
2. The 90 percent confidence bounds shown in the exhibit reflect uncertainty in the VSL, WTP, and income elasticity adjustment.

Source: Economic Analysis (USEPA 2003i) Exhibit 5.27. Detail may not add to totals due to independent rounding.

It is important to note that the monetized benefits only reflect estimated benefits from reductions in bladder cancer. As shown in subsection VII.C.1.and in Table VII–3, there may be significant nonquantifiable benefits associated with regulating DBPs in drinking water. Were EPA able to quantify some of the currently nonquantifiable health effects and other benefits potentially associated with DBP regulation, monetized benefits estimates could be significantly higher than what is shown in the table. A complete discussion of how EPA calculated the risks and the corresponding health benefits potentially associated with exposure to DBPs in drinking water can be found in the Stage 2 DBPR EA (USEPA 2003i).

For additional perspective EPA used updated cancer risk factors for four DBPs for which we have toxicological data. Table III–3 (*see* section III of this preamble) shows the estimated pre-Stage 2 concentrations of these four compounds and the estimated number

of people exposed to them. The Agency used these four DBPs to calculate an alternative baseline number of annual pre-Stage 2 cancer cases. The calculations use the linearized multistage model and predict 37 cases for the ED_{10} risk factors and 87 cases for the LED_{10} risk factors. The ED_{10} risk factors (also known as the maximum likelihood estimate) are based on the estimated dose that the model predicts will result in a carcinogenic response in 10 percent of the subjects, while LED_{10} risk factors correspond to the lower 95% confidence bound on the dose that the model predicts will result in a carcinogenic response in 10% of the subjects (LED_{10} is EPA's more conservative and more commonly used expression of toxicologically based cancer risk). Assuming that DBP risk reductions for Stage 2 for the entire population average 4.2% (corresponding to the reduction in average TTHM levels), Stage 2 cancer cases avoided based on the toxicological data range from 1.7 to 4.0 cases per year. Section 5.2.2.2 of the Economic Analysis (USEPA 2003i) presents a more detailed basis for the derivation of these estimates. It is important to note that these estimates do not include risks from dermal or inhalation exposure nor do they account for many other DBPs (or the mixture of DBPs seen in actual PWSs) for which occurrence or toxicological risk data do not exist.

1. Non-Quantifiable Health and Non-Health Related Benefits

Although there are significant monetized benefits that may result from this rule from the reduction in bladder cancer, other important potential benefits of this rule are not quantified including potential reductions in adverse reproductive and developmental effects and other cancers.

The primary purpose of the Stage 2 DBPR is to address potential adverse reproductive and developmental health effects that might be associated with DBP exposure. EPA concludes that, ''the epidemiologic data, although not conclusive, are suggestive of potential developmental, reproductive, or carcinogenic health effects in humans exposed to DBPs'' (Simmons et al 2002). EPA does not believe the available evidence provides an adequate basis for quantifying potential reproductive/developmental risks. Nevertheless, given the widespread nature of exposure to DBPs and the priority our society places on reproductive/developmental health, and the large number of fetal losses experienced each year in the U.S. (nearly 1 million (Ventura *et al.* 2000)), we believe it is important to provide some quantitative indication of the potential risk suggested by some of the published results on reproductive/developmental endpoints, despite the absence of certainty regarding a causal link between disinfection byproducts and these risks. To do this, we have adapted illustrative PAR calculations from several studies on the relationship between chlorinated water exposure and fetal loss and applied these to national statistics on annual incidence of fetal loss.

Specifically, we calculate the unadjusted population attributable risk associated with each of the three distinct population-based epidemiological studies of fetal loss published: Waller et al. 2001, King et al. 2000a, and Savitz et al. 1995. All three are high quality studies that have sufficient sample sizes and high response rates, adjust for known confounders [2], and have exposure assessment information from water treatment data, residential histories, and THM measurements. Because the populations in these three studies appear to have TTHM exposures significantly greater than those of the general U.S. population, we have chosen to scale the results using Information Collection Rule data to allow us to derive population attributable risks that may be more relevant to the general U.S. population (USEPA 2003i).

These three studies (using unadjusted data to allow for comparability, and scaled to the TTHM levels reported in the Information Collection Rule data base) yield median PARs of 0.4%, 1.7%, and 1.7% (with 95% confidence intervals for each of the studies of 0 to 4%) [3]. Using the prevalence of fetal loss reported by CDC, the median PARs for these three studies suggest that the incidence of fetal loss attributable to exposure to chlorinated drinking water could range from 3,900 to 16,700 annually. As part of the analysis to evaluate potential reduction in fetal loss for the Stage 2 DBPR, EPA assumed that reductions in risk are proportional to the 28 percent reductions in the number of locations having one or more quarterly TTHM measurements that exceed the study population cut-offs (>75 to >81 ug/l, depending on study). This analysis implies that a range of 1,100 to 4,700 fetal losses could be avoided per year as a result of the Stage 2 rule.

Caution is required in interpreting the numbers because many experts recommend that population attributable risk analysis should not be conducted unless causality has been established. Causality has not been established between exposure to disinfection byproducts and fetal loss. The estimates presented here are not part of EPA's quantitative benefits analysis, and the ranges are not meant to suggest upper and lower bounds. Rather, they are intended to illustrate quantitatively the potential risk implications of some of the published results.

EPA has not monetized the value of potential reductions in fetal loss, but recognizes that there is a significant value associated with improvements in reproductive and developmental health. In the absence of valuation studies specific to the health endpoints of concern, the Agency typically draws upon existing studies of similar health endpoints to estimate benefits. The ''transfer'' of the results of these studies to value similar health endpoints must be done carefully and methodically, controlling for differences in the health endpoints and in the relevant populations. Some researchers have attempted to transfer values using sophisticated analytical techniques such as preference calibration methods (e.g., Smith et al. 2002). Regardless of the approach used, ''benefit transfer'' requires systematic comparison of the differences in the health effects in the studies and those resulting from the regulation. Application of benefit transfer leads to a detailed qualitative examination of the implications of using those studies and potentially to empirical adjustments to the results of the existing studies.

The Agency is investigating further work specific to the case of fetal loss valuation. One possible area of further research is the value that prospective parents attach to reducing risks during pregnancy. In this regard, the substantial lifestyle changes that prospective parents often undertake during pregnancy suggests that reducing these kinds of risks is of value. A second possible area of further investigation would be work on benefit transfer methodologies that address how existing studies can inform the estimation of the benefits of reduced fetal loss.

EPA has not monetized the potential reductions in fetal loss. Without more information and discussion on these subjects the Agency cannot fully consider and describe the implications of relying upon existing studies.

[2] Use of unadjusted PAR estimates has the effect of removing the adjustments for known confounders, however, EPA believes the unadjusted estimates are adequate for purposes of the illustrative calculations presented here.

[3] The negative lower 95% confidence intervals for all three studies was truncated at zero.

However, research on valuation and benefit transfer continues to progress and the Agency anticipates new research and future efforts to value reproductive and developmental endpoints.

EPA was also unable to quantify or monetize the benefit from potential reductions in other cancers, such as colon and rectal, that may result from this rule. Both toxicology and epidemiology studies indicate that other cancers may be associated with DBP exposure but currently there is not enough data to quantify or monetize these cancer risks.

Other potential non-health related benefits not quantified or monetized in today's proposed rule include reduced uncertainty about becoming ill from consumption of DBPs in drinking water, the ability for some treatment technologies to eliminate or reduce multiple contaminants, and monitoring changes that will ensure that systems can effectively measure their DBP levels resulting in greater equity in protection from DBPs. First, the reduced uncertainty concept depends on several factors including consumer's degree of risk aversion, their perceptions about drinking water quality (degree to which they will be affected by the regulatory action), and the expected probability and severity of human health effects associated with DBPs in drinking water. This effect could be positive or negative depending on whether knowledge of the rule decreases or increases their concern about DBPs in drinking water and potentially associated health effects.

Another nonquantified potential benefit is the impact of technology selection to address DBPs on a system's ability to address other contaminants. For example, membrane technology (depending on pore size), can be used to lower DBP formation but it can also remove other contaminants that EPA is in the process of regulating or considering regulating. Therefore, by installing membrane technology, a system may not have to make new capital improvement to comply with future regulations.

Last, today's proposed rule makes changes to Stage 1 monitoring requirements. The IDSE monitoring provision of the proposed Stage 2 DBPR will help systems identify locations to conduct their routine monitoring to capture high DBP occurrence levels. Also, the proposed Stage 2 DBPR will prevent a system from conducting sampling designed to avoid monitoring when DBP formation is generally higher. For example, the Stage 1 DBPR required systems to take quarterly samples but samples could conceivably be taken in December (4th quarter) and January (1st quarter) when the waters in the distribution system are colder and DBP formation generally lower. The proposed Stage 2 DBPR addresses this issue by requiring that the samples must be taken about 90 days apart. The benefits of these provisions include the greater certainty that health protection is actually achieved because it is more likely that a system's high DBP levels will be identified. In addition, the rule will reduce variability in the DBP levels throughout the distribution system, ensuring greater equity in public health protection.

2. Quantifiable Health Benefits

Although DBPs in drinking water have been associated with non-cancerous health effects discussed previously, the quantified benefits that result from today's rule are associated only with estimated reductions in DBP-related bladder cancer. A complete discussion of risk assessment methodology and assumptions can be found in Chapter 5 of the Stage 2 DBPR Economic Analysis (USEPA 2003i). Section III of this preamble also discusses the health effects that have been associated with DBP exposure.

The annualized present value benefits for reductions in bladder cancer that are the result of today's rule for both community water system (CWS) and non-transient non-community water systems (NTNCWSs) range from $0 to $986 million using a three percent discount rate ($0 to $854 million using a seven percent discount rate). Overall, the Stage 2 DBPR may reduce on average 0 to 182 bladder cancer cases per year.

The lower estimate of zero is included because of inconsistent evidence regarding the association between exposure to DBPs and cancer. The upper estimate of monetized benefits and cases avoided is based on a population attributable risk (PAR) of 17 percent. Table VII–3 also presents monetized benefits based on a PAR value of 2%. The PAR estimates are derived from an analysis of five epidemiological studies which indicate that perhaps 2 to 17 percent of bladder cancers may be attributable to DBP exposure. These PAR estimates are described in more detail in section III of today's document. These are the same PAR values that EPA used in the Stage 1 DBPR benefits analysis, as discussed in the Regulatory Impact Analysis for the Stage 1 DBPR (USEPA 1998f). Table VII–3 shows the estimated benefits associated with bladder cancer reduction as a result of the proposed rule. Table VII–4 summarizes the mean, median and confidence intervals used to value reductions in bladder cancer.

To calculate the total value of benefits derived from reductions in bladder cancer cases as a result of the Stage 2 DBPR, a stream of estimated monetary benefits is calculated by combining the annual cases avoided with valuation inputs using Monte Carlo simulation. Use of a Monte Carlo simulation allows the characterization of uncertainty around final modeling outputs based on the uncertainty underlying the various valuation inputs. The Stage 2 DBPR benefits model uses distributions of value of statistical life (VSL), willingness-to-pay (WTP), and income elasticity values to attribute monetary values (with uncertainty bounds) to the number of bladder cancer cases avoided.

Several of the inputs needed in the benefit analysis, such as the VSL and WTP estimates, are based on older studies that were updated to current dollar values. In addition, both the VSL and WTP values are dependent on income levels. Therefore, these values also have to be adjusted for increases in real income growth from when the studies were conducted. The valuation inputs and an explanation of the update factors used to bring these values to current price levels and discussed in the following two sections.

Valuation inputs. In order to monetize the benefit from the bladder cancer fatalities, EPA applied a VSL estimate to the cancer cases that result in mortality. EPA assumed a 26 percent mortality rate for bladder cancer (USEPA 1999d). The Agency uses a distribution of VSL values which are based on 26 wage-risk studies. The mean VSL value from these studies is $4.8 million in 1990 dollars. The mean value reflects the best estimate in the range of plausible values reflected by the 26 studies. A more detailed discussion of these studies and the VSL estimate can be found in EPA's *Guidelines for Preparing Economic Analyses* (USEPA 2000b).

The VSL represents the value of reducing the risk of a premature death. This valuation, however, does not take into account the medical costs associated with the period of illness (morbidity increment) leading up to a death. In its review of the Arsenic Rule, the Science Advisory Board (SAB) suggested that the appropriate measure to use in valuing the avoidance of the morbidity increment is the medical cost attributable to a cancer case (USEPA 2001e). Based on available medical data, EPA estimates the medical costs for a fatal bladder cancer case to be $93,927 at a 1996 price level (USEPA 1999d). This medical cost value (updated to 2000 price levels) is applied as a point

estimate to each fatal case of bladder cancer in the benefits model.

A review of the available literature did not reveal any studies that specifically measured the WTP to avoid risks of contracting nonfatal cases of bladder cancer. Instead, two alternates were used, the WTP to avoid the risk of contracting a case of curable lymph cancer (lymphoma) and the WTP to avoid a case of chronic bronchitis. The SAB suggested this approach in their review of the Arsenic Rule (USEPA 2001e). The median risk-risk trade-off for a curable case of lymphoma was equivalent to 58.3 percent of the risk attributed to reducing the chances of facing a sudden death and are derived from the Magat *et al.* study (1996). Therefore, the Agency applies the 58.3 percent to the VSL distribution to derive a range of value for non-fatal cancers with a mean WTP value of $2.8 million ($4.8 million * 58.3 percent) at a 1990 price level. The WTP for avoiding a case of chronic bronchitis is based on the same methodology used for the Stage 1 DBPR (see Stage 2 DBPR EA (USEPA 2003i) for a complete discussion). The estimate is based on a lognormal distribution that uses the risk-dollar tradeoff estimate and has a mean of $587,500, standard deviation of $264,826, and a maximum value of $1.5 million at 1998 price values.

Update factors. All valuation parameters must be updated to the same price level so comparisons can be made in real terms. Values for VSL, WTP, and the morbidity increment used in the model are updated based on adjustment factors derived from Bureau of Labor Statistics (BLS) consumer price index (CPI) data so that each represents a year 2000 price level. Table VII–4 summarizes these updates.

Table VII-4. VSL, WTP, and Morbidity Increment Price Level Updates

Valuation Parameter	Base Year	Mean Value in Base Year (Millions)	CPI Update Factor	Values at Year 2000 Price Level (Millions)			
				Mean	Median	Lower (5th %tile)	Upper (95th %tile)
Morbidity Increment	1996	$ 0.1	1.14	$ 0.1	N/A	N/A	N/A
VSL	1990	$ 4.8	1.32	$ 6.3	$ 5.5	$ 1.0	$ 14.5
WTP - Non-Fatal Lymphoma	1990	$ 2.8	1.32	$ 3.7	$ 3.2	$ 0.6	$ 8.5
WTP - Chronic Bronchitis	1998	$ 0.6	1.06	$ 0.6	$ 0.6	$ 0.3	$ 1.1

Notes: Morbidity increment value is presented as a point estimate.

Source: Economic Analysis (USEPA 2003i) Exhibit 5.29

Although the price level (year 2000) is held constant throughout the benefits model, projections of benefits in future years are subject to income elasticity adjustments. Income elasticity adjustments represent changes in valuation in relation to changes in real income. For fatal cancers, the Agency used a triangular distribution with a central estimate of 0.40 (low end: 0.08; high end:1.00) to represent the uncertainty of the income elasticity value. For non-fatal cancers, the Agency uses a triangular distribution with a central estimate of 0.45 (low end: 0.25; high end: 0.60). These distributions are used as assumptions in the Monte Carlo simulation to further characterize uncertainty in benefits estimates.

In order to apply the income elasticity values in the model, they are combined with projections of real income growth over the time frame for analysis. Population and real gross domestic product (GDP) projections are combined to calculate per-capita real GDP values. A more detailed discussion of these adjustments is in Chapter 5 of the EA (USEPA 2003i).

The development of cancer due to exposure to environmental carcinogens involves a complex set of processes that are not well-understood for most specific substances. In general, however, the development of cancer involves some time period, usually referred to as the latency period, between the initial exposure and the manifestation of disease. Defining a latency period is highly uncertain because the mode of action for most chemical contaminants are poorly understood. Latency periods in humans often involve many years, even decades.

EPA recognizes that despite uncertainties in the latency period associated with different types of carcinogens, it is unlikely that all cancer reduction benefits would be realized immediately upon exposure reduction. If it is assumed that lower risk is attained immediately upon reduction in exposure, this would tend to overestimate the benefits. On the other hand, assuming that no risk reduction occurs for some period of time following exposure reduction may lead to an underestimation of the benefits. There will likely be some transition period as individual risks become more reflective of the new lower exposures than the past higher exposures.

Recently, the Arsenic Rule Benefits Review Panel of the EPA Science Advisory Board (SAB) addressed this issue in detail and provided some guidance for computing benefits to account for this transition period between higher and lower steady-state risks (USEPA 2003s). The Arsenic Rule Benefits Review Panel coined the term ''cessation-lag'' to emphasize the focus on the timing of the attenuation of risk after reduction in exposures to avoid confusion with the more traditional term of ''latency'' that reflects the increased risk [4] from the time of initial exposure.

[4] SAB included the following in its report on arsenic to emphasize this difference: ''An important point is that the time to benefits from reducing arsenic in drinking water may not equal the estimated time since first exposure to an adverse effect. A good example is cigarette smoking: the latency between initiation of exposure and an increase in lung cancer risk is approximately 20 years. However, after cessation of exposure, risk for lung cancer begins to decline rather quickly. A benefits analysis of smoking cessation programs

Continued

Although the focus of the cessation lag discussion in the SAB review was on reducing levels of arsenic in drinking water, much of their consideration of this issue has more general applications beyond just the arsenic issue at hand. In particular, SAB noted the following:

- The same model should be used to estimate the time pattern of exposure and response as is used to estimate the potency of the carcinogen.
- If possible, information about the mechanism by which cancer occurs should be used in estimating the cessation lag (noting that late-stage mechanisms in cancer formation imply a shorter cessation lag than early stage mechanisms).
- If specific data are not available for characterizing the cessation lag, an upper bound for benefits can be provided based on the assumption of immediately attaining steady-state results.
- In the absence of specific cessation lag data, other models should be considered to examine the influence of the lag.

Following the release of the SAB report on arsenic, EPA initiated an effort to explore approaches to including the cessation lag in modeling risk reduction and calculating benefits for the arsenic regulation. EPA recognized, however, that the concept of cessation lag is not only applicable to arsenic but to other drinking water contaminants having a cancer end-point as well.

In response to the SAB cessation lag recommendations, EPA has:

- Conducted a study using data on lung cancer risk reductions following cessation of smoking that resulted in the January 2003 report Arsenic in Drinking Water: Cessation Lag Model (USEPA 2003s).
- Conducted an expert scientific peer review of that draft report.
- Initiated development of general criteria for incorporating cessation lag modeling in benefits analyses for other drinking water regulations.

In the effort to develop a cessation lag model specific to DBPs, EPA reviewed the available epidemiological literature for information relating to the timing of exposure and response, but could not identify any studies that were adequate, alone or in combination, to support a specific cessation lag model for DBPs in drinking water. Thus, in keeping with the SAB recommendation to consider other models in the absence of specific cessation lag information, EPA explored the use of information on other carcinogens that could be used as a indicator to characterize the influence of cessation lag in calculating benefits. The carcinogen for which the most extensive database was available for characterizing cessation lag was for cigarette smoking. EPA examined several extensive epidemiological studies on the comparison of the risks of adverse health effects, including lung cancer, for smokers and former smokers. EPA selected the Hrubek and McLaughlin (1997) study as the most appropriate study for development of a statistical model of disease response to smoking cessation. This was a comprehensive study involving a 26-year follow-up of almost 300,000 U.S. male military veterans. More detail about this study and how it is applied to estimate the cessation lag can be found in Chapter 5 of the EA (USEPA 2003i) and the cessation lag document (USEPA 2003s).

The smoking cessation lag data imply that the majority of the potential steady state cases avoided occur within the first several years, but with diminishing incremental increases in later years. For example, the cessation lag model indicates that approximately 40 percent of the steady-state cases avoided are achieved by the end of the second year, with 70 percent achieved by the end of the fifth year, and approximately 80 percent by the tenth year. By the twentieth year, 90 percent of the steady state cases are avoided.

EPA recognizes that there are several factors that contribute to the uncertainty in the application of the specific cessation lag model used in the estimation of the benefits of the proposed Stage 2 regulation. A key factor to consider in assessing this impact is the likely mode of action of DBPs in eliciting bladder cancer versus the mode of action of tobacco smoke in producing lung cancer, and in particular whether they behave as initiators or promoters of the carcinogenic process. As discussed in the SAB report and the EPA Cessation Lag report (USEPA 2001e, USEPA 2003s), carcinogens that act solely or primarily as initiators would tend to show a longer cessation lag (lower rate of risk reduction following reductions in exposure) than carcinogens that act solely or primarily as promoters. The available information on tobacco smoke and lung cancer suggests that it involves a mixture of both initiators and promoters, and therefore the cessation lag derived from smoking data is expected to reflect the combined influence of these divergent mechanisms. There are no data available on the mechanism of action for DBPs and bladder cancer; indeed the specific carcinogenic agent(s) present in disinfected water responsible for the observed effect have not been identified. The use of the tobacco smoke cessation lag model reflecting a mixture of initiators and promoters would be expected to attenuate a possible bias in either direction if the DBPs responsible for bladder cancer are acting predominately as either initiators or promoters.

Another factor to consider is that the cessation lag model used is based upon exposure to tobacco smoke where lung cancer is the end-point but is being applied to exposure to disinfection by-products where the end-point is bladder cancer. Of concern here is that there is a more direct correlation between inhalation and the site of cancer for smoking than there is for ingestion and inhalation of drinking water and the sites of cancer for DBP exposure. Unfortunately, EPA does not have data on which to develop a cessation lag model using data specific to how changes in DBP exposures affect the risks of developing bladder cancer.

Another divergence, and perhaps the most important, between the smoking model and the DBP application is that the smoking model is based on complete cessation of exposure, whereas in the case of DBP exposure is only being reduced. In some water systems the reduction is only 10 percent, whereas in others it may be as high as 60 percent, with an average of approximately 30%. This moderate reduction in exposure may prevent full DNA repair, which some scientists interpret as the basis for the short cessation lag associated with smoking.

Currently, smoking is the only contaminant for which enough data exist to estimate a cessation lag. In the absence of a reliable cessation lag model based specifically on DBPs and bladder cancer, EPA used the cessation lag model based on smoking to provide a means of estimating the rate at which bladder cancer risk in the exposed population falls from the pre-Stage 2 levels to the post-Stage 2 levels. However, this model is derived from data involving notable differences from DBPs in drinking water, including different cancer sites (lung versus bladder), different exposure pathways (inhalation versus a combination of ingestion, inhalation and dermal), different risk levels, and, perhaps most importantly, complete cessation for smoking versus small exposure decreases for DBPs. For these reasons, the extent to which the smoking / lung cancer model is directly transferable to DBP / bladder cancer is uncertain. It is not possible to know, however, whether and to what degree the tobacco smoke

based on the observed latency would greatly underestimate the actual benefits.''

cessation lag model either over-states or under-states the rate at which population risk reduction for bladder cancer occurs following DBP exposure reductions.

EPA is currently examining the recently published meta-analysis by Villanueva *et al.* (2003) to determine if the information provided on increases in risk as a function of duration of exposure can provide any insight on how reductions in risk over time might occur following reductions in exposure. Villanueva *et al.* (2003) demonstrated that the risk associated with chlorinated drinking water and bladder cancer are related to exposure duration. Specifically, they estimated a unit increase in the odds ratio of 1.006 per year (95% CI of 1.004 to 1.009). The model suggests a cumulative odds ratio of 1.13 after 20 years of exposure (95% CI of 1.08 to 1.20), and 1.27 (95% CI of 1.17 to 1.43) after 40 years. This result is consistent with most of the individual studies which do not show statistically significant risk increases until at least 30–40 years of exposure. However, these studies provide indirect evidence only about the latency of potential effects. For perspective, it is important to note that the latency between initiation of exposure and an increase in lung cancer risk is approximately 20 years. As noted above, latency is not the same as the cessation lag. EPA is requesting comment on (a) the potential application of the Villanueva *et al.* (2003) model to estimate reductions in bladder cancer risk that might accompany decreased exposure to DBPs as a result of the Stage 2 Rule; (b) the advantages and disadvantages of using the current approach—*i.e.*, application of the smoking cessation lag model; and (c) suggestions for alternative data sets or approaches to characterize cessation lag.

In addition to the delay in reaching a new steady-state level of risk reduction as a result of cessation lag effects, there is a delay in exposure reduction resulting from the Stage 2 DBPR implementation. In general, EPA assumes that a fairly uniform increment of systems will complete installation of new treatment technologies each year, with the last systems installing treatment by 2013. EPA recognizes that more systems may start in early or later years, but believes that a uniform schedule is a reasonable assumption. Appendix D of the EA presents detailed information regarding the rule activity schedule assumptions (USEPA 2003i).

The delay in exposure reduction resulting from the rule implementation schedule is incorporated into the benefits model by adjusting the cessation lag weighting factor. For example, if ten percent of systems install treatment equipment (and start realizing reductions in cancer cases) in year one, only that portion of the cases are modeled to begin the cessation lag equilibrium process in that year. Thus, the resulting ''weighted weighting factor'' is higher relative to the base factor. Appendix E in the EA (USEPA 2003i) presents detailed breakdowns of all weighting factor adjustments and resulting cancer cases avoided, by year, for each rule alternative based on the application of the cessation lag methodology.

3. Benefit Sensitivity Analyses

The Agency performed one other benefit sensitivity analysis which is included in the EA to allow for comparison with the benefit estimates calculated for the Stage 1 DBPR. This analysis assumes that there is not a cessation lag or latency adjustment associated with bladder cancer reductions that result from the rule. In this case, the analysis assumes that the steady state reduction in bladder cancer occurs immediately with rule implementation. This is the same methodology used to estimate the quantified benefits of the Stage 1 DBPR.

D. Costs of the Proposed Stage 2 DBPR

In estimating the costs of today's proposed rule, the Agency considered impacts on water systems (CWSs and NTNCWSs) and on States (including territories and EPA implementation in non-primacy States). EPA assumed that systems would be in compliance with the Stage 1 DBPR, which has a compliance date of January 2004 for ground water systems and small surface water systems and January 2002 for large surface water systems. Therefore, the cost estimate only considers the additional requirements that are a direct result of the Stage 2 DBPR. More detailed information on cost estimates are described later and a complete discussion can be found in Chapter 6 of the Stage 2 DBPR EA (USEPA 2003i)

1. National cost estimates

EPA estimates that the mean annualized cost of the proposed rule ranges from approximately $59.1 million using a three percent discount rate to $64.6 million using a seven percent discount rate. Drinking water utilities will incur approximately 98 percent of the rule's costs. States will incur the remaining rule cost. Tables VII–5 a and b summarize the total annualized cost estimates for the proposed Stage 2 DBPR. In addition to mean estimates of costs, the Agency calculated 90 percent confidence bounds by considering the uncertainty around the mean unit technology costs. Table VII–6 shows the undiscounted capital cost and all one-time costs broken out by rule component. A table comparing total annualized costs among the regulatory alternatives considered by the Agency is located in subsection VII.G.

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Table VII-5a Total Annualized Costs ($ millions, 2000$), 3 Percent Discount Rate

System Costs															Total Costs of the Rule		
	Capital Costs			O&M Costs			Non-Treatment Costs (Point Estimate)				Total System Costs						
		90 Percent Confidence Bound			90 Percent Confidence Bound							90 Percent Confidence Bound				90 Percent Confidence Bound	
System Size (Population Served)	Mean Value	Lower (5th %tile)	Upper (95th %tile)	Mean Value	Lower (5th %tile)	Upper (95th %tile)	Implement-ation	IDSE	Moni-toring	Significant Excursion	Mean Value	Lower (5th %tile)	Upper (95th %tile)	State Costs	Mean Value	Lower (5th %tile)	Upper (95th %tile)
Surface Water CWSs																	
≤ 10,000	$2.23	$1.92	$2.54	$3.94	$3.66	$4.22	$0.08	$0.84	$1.20	$0.00	$8.30	$7.71	$8.89				
> 10,000	$10.76	$9.44	$12.08	$10.08	$9.50	$10.67	$0.02	$2.68	-$2.14	$0.01	$21.42	$19.51	$23.33				
Surface Water NTNCWSs																	
≤ 10,000	$0.18	$0.15	$0.21	$0.43	$0.40	$0.46	$0.01	$0.00	$0.00	$0.00	$0.62	$0.56	$0.68				
> 10,000	$0.04	$0.04	$0.05	$0.04	$0.04	$0.04	$0.00	$0.01	$0.01	$0.00	$0.10	$0.10	$0.11				
Ground Water CWSs																	
≤ 10,000	$4.68	$3.94	$5.41	$5.60	$5.19	$6.00	$0.21	$0.21	$1.16	$0.00	$11.85	$10.71	$12.99				
> 10,000	$5.04	$4.52	$5.56	$7.31	$6.87	$7.77	$0.01	$0.14	$1.68	$0.00	$14.19	$13.23	$15.17				
Ground Water NTNCWSs																	
≤ 10,000	$0.55	$0.47	$0.63	$0.81	$0.74	$0.88	$0.05	$0.00	$0.00	$0.00	$1.41	$1.26	$1.56				
> 10,000	$0.01	$0.01	$0.01	$0.02	$0.02	$0.02	$0.00	$0.00	$0.00	$0.00	$0.04	$0.03	$0.04				
TOTAL	**$23.49**	**$20.49**	**$26.49**	**$28.23**	**$26.41**	**$30.07**	**$0.38**	**$3.89**	**$1.92**	**$0.01**	**$57.93**	**$53.12**	**$62.77**	**$1.14**	**$59.08**	**$54.26**	**$63.91**

Note: Detail may not add due to independent rounding

Present value in millions of $2000 dollars. Estimates are discounted to 2003.

Source: Economic Analysis (USEPA 2003i) Exhibit 6.6a

Table VII-5b Total Annualized Costs ($ millions, 2000$), 7 Percent Discount Rate

System Size (Population Served)	System Costs: Capital Costs Mean Value	Capital Costs 90 Percent Confidence Bound Lower (5th %tile)	Capital Costs 90 Percent Confidence Bound Upper (95th %tile)	O&M Costs Mean Value	O&M Costs 90 Percent Confidence Bound Lower (5th %tile)	O&M Costs 90 Percent Confidence Bound Upper (95th %tile)	Non-Treatment Costs (Point Estimate) Implementation	Non-Treatment Costs (Point Estimate) IDSE	Non-Treatment Costs (Point Estimate) Monitoring	Non-Treatment Costs (Point Estimate) Significant Excursion	Total System Costs Mean Value	Total System Costs 90 Percent Confidence Bound Lower (5th %tile)	Total System Costs 90 Percent Confidence Bound Upper (95th %tile)	State Costs	Total Costs of the Rule Mean Value	Total Costs of the Rule 90 Percent Confidence Bound Lower (5th %tile)	Total Costs of the Rule 90 Percent Confidence Bound Upper (95th %tile)
Surface Water CWSs																	
≤ 10,000	$2.69	$2.31	$3.06	$3.56	$3.31	$3.81	$0.11	$1.21	$1.03	$0.00	$8.61	$7.98	$9.24				
> 10,000	$13.62	$11.94	$15.29	$9.38	$8.85	$9.93	$0.03	$3.94	-$1.89	$0.01	$25.09	$22.88	$27.31				
Surface Water NTNCWSs																	
≤ 10,000	$0.22	$0.19	$0.25	$0.39	$0.36	$0.41	$0.01	$0.00	$0.00	$0.00	$0.62	$0.55	$0.68				
> 10,000	$0.05	$0.05	$0.06	$0.03	$0.03	$0.04	$0.00	$0.01	$0.01	$0.00	$0.12	$0.11	$0.12				
Ground Water CWSs																	
≤ 10,000	$5.63	$4.74	$6.51	$5.06	$4.69	$5.43	$0.28	$0.28	$0.99	$0.00	$12.24	$10.98	$13.49				
> 10,000	$6.38	$5.72	$7.04	$6.81	$6.40	$7.23	$0.02	$0.21	$1.48	$0.00	$14.89	$13.83	$15.97				
Ground Water NTNCWSs																	
≤ 10,000	$0.66	$0.57	$0.75	$0.74	$0.67	$0.80	$0.06	$0.00	$0.00	$0.00	$1.46	$1.30	$1.62				
> 10,000	$0.02	$0.01	$0.02	$0.02	$0.02	$0.02	$0.00	$0.00	$0.00	$0.00	$0.04	$0.03	$0.04				
TOTAL	**$29.26**	**$25.54**	**$32.98**	**$25.99**	**$24.32**	**$27.68**	**$0.51**	**$5.66**	**$1.64**	**$0.01**	**$63.07**	**$57.67**	**$68.48**	**$1.48**	**$64.55**	**$59.16**	**$69.96**

Note: Detail may not add due to independent rounding
Present value in millions of $2000 dollars. Estimates are discounted to 2003.
Source: Economic Analysis (USEPA 2003i) Exhibit 6.6b

Table VII-6 Initial Capital and One-time Costs for the Stage 2 DBPR ($million, 2000$)

	Surface Water		Disinfecting Ground Water		Total
	Serving ≤ 10,000	Serving > 10,000	Serving ≤ 10,000	Serving > 10,000	
Total Initial Capital Costs for the Rule	**$ 50.0**	**$ 214.64**	**$ 108.3**	**$ 100.3**	**$ 473.3**
(90% Confidence Bounds)	**($43.1 - 57.1)**	**($188.2 - 240.9)**	**($91.5 - 125.1)**	**($90.0 - 110.7)**	
CWS Total Initial Capital	$ 46.26	$ 213.8	$ 96.9	$ 100.1	$ 457.0
(90% Confidence Bounds)	($39.8 - 52.7)	($187.4 - 239.9)	($81.6 - 112.1)	($89.8 - 110.4)	
NTNCWS Total Initial Capital	$ 3.79	$ 0.9	$ 11.4	$ 0.3	$ 16.3
(90% Confidence Bounds)	($3.2 - 4.4)	($0.7 - 1.0)	($9.8 - 13.0)	($0.2 - 0.3)	
CWS One-Time Costs	$ 16.7	$ 47.9	$ 8.1	$ 2.7	$ 75.4
Implementation	$ 1.5	$ 0.4	$ 4.1	$ 0.2	$ 6.2
IDSE	$ 15.2	$ 47.4	$ 4.0	$ 2.5	$ 69.2
NTNCWS One-Time Costs	$ 0.1	$ 0.2	$ 0.9	$ 0.0	$ 1.2
Implementation	$ 0.1	$ 0.0	$ 0.9	$ 0.0	$ 1.0
IDSE	$ -	$ 0.2	$ 0.0	$ 0.0	$ 0.2
State/Primacy Agency One-Time Costs					$ 14.4
Implementation					$ 6.7
IDSE					$ 7.7

Notes: 1) Detail may not add due to independent rounding (Some data are rounded to zero if less than $0.05 million).
Source: Economic Analysis (USEPA 2003i) Exhibit 6.5

2. Water system costs

The proposed Stage 2 DBPR applies to all community or nontransient noncommunity water systems that add a chemical disinfectant other than UV or distribute water that has been treated with a disinfectant other than UV. EPA has estimated the cost impacts for both types of public water systems. As shown in Tables VII–5 a and b, the total annualized present value costs for CWSs is approximately $55.8 million and for NTNCWSs, $2.2 million, using a three percent discount rate ($60.8 million and $2.2 million using a seven percent discount rate).

Although the number of systems adding treatment is small, treatment costs make up a significant portion of the total costs of the rule (more than 75 percent of total rule costs). Table VII–7 shows the baseline number of plants and the estimated percent of those plants adding treatment. The estimated percent of plants adding advanced treatment or converting to chloramines is 2.8 percent of all systems. A higher percentage of surface water plants are predicted to add treatment compared to ground water plants. However, the baseline number of ground water plants is larger than that of surface water plants, so there is a larger number of ground water plants adding treatment. Subsection VII.F. provides a more detailed explanation of treatment changes that may occur as a result of the proposed rule.

All systems will incur costs for rule implementation. Some will need to conduct a one-time Initial Distribution System Evaluation (IDSE) and others (a different subgroup depending on the system size) may incur additional costs for routine DBP monitoring. Some systems may also have to conduct a peak excursion evaluation if single samples indicate high DBP levels.

Sixty-nine percent of surface water and 7 percent of ground water CWSs are predicted to conduct the IDSE monitoring. EPA estimates that a very small portion of systems (approximately 16 percent overall) will conduct additional routine monitoring beyond the Stage 1 DBPR requirements. However, fewer samples overall would be required if a population-based approach is implemented instead of the plant-based approach that is currently being used to estimate monitoring costs. Section V describes the population-based approach in more detail and a discussion of how this approach may influence costs is provided in Appendix H of the EA (USEPA 2003i). A small percentage of systems (approximately 3.0 percent of surface water CWSs and 0 percent of ground water systems) are expected to experience significant excursions.

A complete discussion of the rule provisions is located in section V of this preamble; the *Stage 2 DBPR Economic Analysis* includes a complete analysis of rule impacts (USEPA 2003i). Table VII–8 summarizes the number of systems subject to non-treatment related rule activities. Column D indicates the number of systems expected to use the standard monitoring program to implement the IDSE. Column F indicates the number of systems expected to increase monitoring sites beyond that required by Stage 1. The last two columns show the number and percent of plants estimated to experience significant excursions each year.

Table VII-7. Number of Plants Adding Treatment

System Size (Population Served)	Stage 2 DBPR Plant Baseline	Number and Percentage of Plants Adding Treatment	
Primarily Surface Water CWSs			
≤ 100	470	21	4.4%
101-500	799	26	3.3%
501-1,000	505	17	3.3%
1,001-3,300	1,103	41	3.7%
3,301-10,000	1,213	45	3.7%
10,001-50,000	1,287	75	5.8%
50,001-100,000	538	31	5.8%
100,001-1 Million	572	33	5.8%
> 1 Million	74	4	5.8%
National Totals	**6,560**	**293**	**4.5%**
Primarily Ground Water CWSs			
≤ 100	7,772	211	2.7%
101-500	15,725	461	2.9%
501-1,000	6,133	180	2.9%
1,001-3,300	7,890	184	2.3%
3,301-10,000	4,975	116	2.3%
10,001-50,000	5,367	112	2.1%
50,001-100,000	738	15	2.1%
100,001-1 Million	875	17	1.9%
> 1 Million	18	0	1.9%
National Totals	**49,495**	**1,296**	**2.6%**
Primarily Suface Water NTNCWSs			
≤ 100	298	13	4.4%
101-500	301	10	3.3%
501-1,000	108	4	3.3%
1,001-3,300	72	3	3.7%
3,301-10,000	23	1	3.7%
10,001-50,000	9	1	5.8%
50,001-100,000	1	0	5.8%
100,001-1 Million	1	0	5.8%
> 1 Million	0	0	0.0%
National Totals	**813**	**31**	**3.8%**
Primarily Ground Water NTNCWSs			
≤ 100	3,662	99	2.7%
101-500	2,624	77	2.9%
501-1,000	717	21	2.9%
1,001-3,300	267	6	2.3%
3,301-10,000	27	1	2.3%
10,001-50,000	4	0	2.1%
50,001-100,000	0	0	2.1%
100,001-1 Million	1	0	1.9%
> 1 Million	0	0	0.0%
National Totals	**7,303**	**204**	**2.8%**
Grand Total All Plants	**64,171**	**1,824**	**2.8%**

Source : Economic Analysis (USEPA 2003i) Exhibit 6.16a, 6.16.b,6.17a, 6.17b

Table VII-8 Number of Systems Subject to Non-Treatment Related Rule Activities

System Size (Population Served)	Stage 2 DBPR System Baseline	Number and Percent of Systems Performing Various Rule Activities							
		Implementation		IDSE Monitoring		Additional Routine Monitoring		Significant Excursion Evaluations	
	A	B	C=B/A*100	D	E=D/A*100	F	G=F/A*100	H	I=H/A*100
Surface Water and Mixed CWSs									
≤ 100	1,283	1,283	100%	289.2	23%	0.0	0%	0.0	0%
101-500	2,120	2,120	100%	546.4	26%	42.5	2%	2.0	0%
501-1,000	1,313	1,313	100%	1,179.3	90%	546.6	42%	26.2	2%
1,001-3,300	2,467	2,467	100%	2,215.8	90%	1,027.0	42%	49.3	2%
3,301-10,000	1,928	1,928	100%	1,722.8	89%	1,084.3	56%	42.3	2%
10,001-50,000	1,690	1,690	100%	1,454.0	86%	0.0	0%	133.2	8%
50,001-100,000	313	313	100%	255.3	82%	0.0	0%	40.6	13%
100,001-1 Million	276	276	100%	213.3	77%	0.0	0%	41.1	15%
> 1 Million	13	13	100%	9.9	76%	0.0	0%	3.3	25%
National Totals	11,403	11,403	100%	7,886	69%	2,700	24%	338	3%
Ground Water Only CWSs									
≤ 100	7,601	7,601	100%	236.2	3%	0.0	0%	0.0	0%
101-500	11,836	11,836	100%	392.6	3%	118.6	1%	0.0	0%
501-1,000	4,089	4,089	100%	482.0	12%	1,691.9	41%	0.0	0%
1,001-3,300	4,869	4,869	100%	573.9	12%	2,014.5	41%	0.0	0%
3,301-10,000	2,288	2,288	100%	270.5	12%	946.6	41%	0.0	0%
10,001-50,000	1,232	1,232	100%	218.0	18%	493.7	40%	0.0	0%
50,001-100,000	129	129	100%	22.8	18%	51.6	40%	0.0	0%
100,001-1 Million	60	60	100%	16.0	27%	22.8	38%	0.0	0%
> 1 Million	2	2	100%	1.0	50%	0.9	44%	0.0	0%
National Totals	32,105	32,105	100%	2,213	7%	5,341	17%	0	0%
Surface Water and Mixed NTNCWSs									
≤ 100	303	303	100%	0.0	0%	0.0	0%	0.0	0%
101-500	302	302	100%	0.0	0%	0.0	0%	0.0	0%
501-1,000	109	109	100%	0.0	0%	0.0	0%	0.0	0%
1,001-3,300	74	74	100%	0.0	0%	0.0	0%	0.0	0%
3,301-10,000	22	22	100%	0.0	0%	6.0	27%	0.0	0%
10,001-50,000	9	9	100%	8.0	89%	4.0	44%	0.0	0%
50,001-100,000	1	1	100%	1.0	100%	1.0	100%	0.0	0%
100,001-1 Million	1	1	100%	1.0	100%	1.0	100%	0.0	0%
> 1 Million	0	0	-	0.0	-	0.0	-	0.0	-
National Totals	821	821	100%	10	1%	12	1%	0	0%
Ground Water Only NTNCWSs									
≤ 100	3,662	3,662	100%	0.0	0%	0.0	0%	0.0	0%
101-500	2,624	2,624	100%	0.0	0%	0.8	0%	0.0	0%
501-1,000	717	717	100%	0.0	0%	5.1	1%	0.0	0%
1,001-3,300	267	267	100%	0.0	0%	1.9	1%	0.0	0%
3,301-10,000	27	27	100%	0.1	0%	0.3	1%	0.0	0%
10,001-50,000	4	4	100%	0.9	19%	0.9	19%	0.0	0%
50,001-100,000	0	0	100%	0.1	19%	0.1	19%	0.0	0%
100,001-1 Million	1	1	100%	0.0	0%	0.0	0%	0.0	0%
> 1 Million	0	0	-	0.0	-	0.0	-	0.0	-
National Totals	7,303	7,303	100%	1	0%	9	0%	0	0%
GRAND TOTAL	51,632	51,632	100%	10,110	20%	8,062	16%	338	1%

Source: Economic Analysis (USEPA 2003i) Exhibit 6.3

In addition to using distributions to develop unit cost estimates, the Agency conducted sensitivity analyses to further explore uncertainty regarding system compliance estimates. The first two sensitivity analyses were prepared to evaluate the possibility that the IDSE monitoring requirement will result in more systems needing to install treatment beyond what is predicted in the current cost model (see chapter 7 of the EA, USEPA 2003i, for details of this analysis). Table VII–9 lists the high-end estimates of the number of systems adding treatment in IDSE sensitivity analyses No. 1 and No. 2. For both IDSE sensitivity analyses, only small additional impacts were assumed possible for systems serving 10,000 people or fewer because such systems generally have much less complicated distribution systems than larger systems. EPA estimated that the mean annualized costs at the 3% discount rate could be as high as $77.5 million (IDSE Sensitivity Analysis No. 1) or $108.8 million (IDSE Sensitivity Analysis No. 2) versus the Preferred Alternative analysis estimate of $57.4 million. At the 7% discount rate these estimates would respectively correspond to $86.1 million, $120.7 million, and $63.3 million.

Table VII-9 Sensitivity Analysis on Potential Treatment Impacts of IDSE From Stage 1 to Stage 2 (Community Water Systems)

	Percent Adding Treatment		
	Preferred Alternative	IDSE No. 1	IDSE No. 2
SW ≤ 10,000	3.7%	4.6%	4.8%
SW > 10,000	5.8%	9.9%	15.1%
GW ≤ 10,000	2.7%	2.8%	2.9%
GW > 10,000	2.1%	3.2%	3.6%

Source: Economic Analysis, Exhibit 7.1 Chapter 7 (USEPA 2003i).

EPA believes that the percentage of systems estimated to add treatment under IDSE sensitivity analyses No. 1 and No. 2 are overestimates and that the estimate for the Preferred Alternative is likely to already capture the influence of the IDSE because of the conservative assumptions used in the analysis. For example, the compliance forecast analysis assumes that systems will try to meet the LRAA MCLs with a 20% margin of safety. Systems complying by switching to chloramines may choose to meet the new MCLs with a much smaller margin of safety since chloramines dampen the variability of DBP concentrations within the distribution system. Furthermore, EPA believes that the number of ground water and small surface water systems adding chloramines or changing technology in the baseline analysis may be overestimated because their monitoring requirements are expected to be very similar from Stage 1 to Stage 2. The Stage 1 DBPR required only one compliance monitoring location (at the point of maximum residence time) for producing surface water systems serving between 500 and 10,000 people and for all ground water systems. The Stage 2 DBPR requires that these systems add an additional site if they determine that their high TTHM and high HAA5 concentrations do not occur at the same location. If systems maintain a single monitoring location for the Stage 2 DBPR, as many are expected to do, calculation of compliance will produce the same results for the running annual average (RAA) and locational running annual average (LRAA) measure, implying that they are not likely to add treatment for the Stage 2 DBPR if they comply with the Stage 1 DBPR.

EPA conducted a third sensitivity analysis to evaluate the possibility that small systems will continue to monitor at one point in their distribution system. In this sensitivity analysis, EPA assumed that no surface water plants serving fewer than 10,000 people and no ground water plants would add treatment to meet Stage 2 DBPR requirements (*i.e.*, only costs are associated for large surface water systems). Under this analysis, the average cost figures are reduced dramatically from $57.4 million or $63.3 million to $22.9 million or $25.7 million using a 3 percent or 7 percent discount rate, respectively, for the Preferred Regulatory Alternative. Chapter 7 of the Economic Analysis (USEPA 2003i) contains a detailed explanation of the aforementioned sensitivity analysis.

3. State Costs

The Agency estimates that the States and primacy agencies will incur an annualized present value cost of $1.1 million to $1.5 million (using a three percent and seven percent discount rate, respectively). In order to estimate the cost impact to States, EPA considered initial implementation costs, costs for assisting systems in evaluating IDSE information, and for annual rule implementation activities. EPA considered the incremental change in activities that result from the Stage 2 DBPR. For example, States may have to update their databases to track the new Stage 2 DBPR monitoring strategy but could modify the system they developed for the Stage 1 DBPR. EPA accounted for the cost of a Stage 1 DBPR database in the Stage 1 Regulatory Impact Analysis (USEPA 1998f). State costs are not expected to change dramatically between alternatives.

4. Non-quantifiable

EPA has identified and quantified costs that it believes are likely to be significant. In some instances, EPA did not include a potential cost element because it believes the effects are relatively minor and difficult to estimate. For example, the Stage 2 DBPR may be the determining factor in the decision by some small water systems to merge with neighboring systems. Such changes have both costs (legal fees and connecting infrastructure) and benefits (economies of scale). Likewise, costs for procuring a new source of water would have costs for new infrastructure but could result in lower treatment costs.

Also, EPA was unable to quantify several distribution system-related

changes that can reduce TTHM and HAA5 levels. Activities such as looping distribution systems and optimizing storage can minimize retention times and help to control DBP formation. Costs for these activities range from almost zero (modifying retention time) to more substantial costs for modifying distribution systems. In the absence of detailed information needed to make cost evaluations for situations such as these, EPA has included a discussion of possible effects where appropriate.

E. Expected System Treatment Changes

In order to quantify the effects of the Stage 2 DBPR, it is necessary to predict how plants will modify their treatment processes to meet the proposed requirements. To estimate the incremental impacts of the Stage 2 DBPR, relative to the Stage 1 DBPR, EPA compared predicted ''ending technologies'' (types of treatment in use after implementation of the Stage 2 DBPR) to the distribution of baseline technologies predicted to be in place after the implementation of the Stage 1 DBPR. This subsection outlines the process for deriving baseline and ending Stage 2 technology distributions that are the basis for the national cost estimates of today's proposed rule.

1. Pre-Stage 2 DBPR Baseline Conditions

Development of the Pre-Stage 2 baseline (*i.e.*, conditions following the Stage 1 DBPR) consists of the following processes:

- Compiling an industry profile—identifying and collecting information on the segment(s) of the water supply industry subject to the Stage 2 DBPR;
- Characterizing influent water quality—summarizing the relevant characteristics of the raw water treated by the industry; and
- Characterizing treatment for the Stage 1 DBPR—predicting what the industry will do to comply with the provisions of the Stage 1 DBPR.

Section IV of this document details the data sources EPA used to characterize water quality and treatment practices for the nation's public water systems. EPA also used information in the *Water Industry Baseline Handbook* (USEPA 2000j) to develop the industry profile. The Baseline Handbook uses data derived from the 1995 Community Water Systems Survey and the Safe Drinking Water Information System to characterize the U.S. drinking water systems. Another EPA study, *Geometries and Characteristics of Water Systems Report* (USEPA 2000k), also provided information for the industry profile.

EPA developed and used a model (SWAT) to characterize treatment following the Stage 1 DBPR and Stage 2 DBPR options considered. SWAT served as the primary tool to predict changes in treatment and DBP occurrence. The model used a series of algorithms and decision rules to predict the type of treatment a large surface water plant will use given a specific regulatory alternative and source water quality. Other tools were used to estimate practices at large ground water systems or any medium or small systems. A Delphi process (a detailed technical treatment characterization and DBP occurrence review by drinking water experts) was used to predict treatment changes for large ground water systems (those serving 10,000 or more people). The results of the SWAT analyses and the Delphi process were extrapolated to the medium surface water and ground water systems based on analysis of source water treatment characteristics and treatment decision trees. For the small surface and ground water systems analyses, a group of experts provided predictions for a pre-Stage 2 baseline and resulting treatment and water quality conditions under the Stage 2 DBPR regulatory alternatives. A detailed description of these analyses can be found in the *Economic Analysis for the Stage 2 DBPR* (USEPA 2003i).

2. Predicted Technology Distributions Post-Stage 2 DBPR

The treatment compliance forecast for the Stage 2 DBPR has two components—1) the percent of plants that must add treatment to comply with Stage 2 DBPR requirements, and 2) the treatment technologies these plants are predicted to select. This information, coupled with the baseline data discussed before, provides an estimate of the total number of plants using specific technologies to meet the requirements of the proposed Stage 2 DBPR. National costs are then generated using technology unit cost information.

The four step process EPA used to develop a Stage 2 DBPR compliance forecast is summarized in table VII–10. The difference between the Stage 1 DBPR Technology Selections and Stage 2 DBPR Technology Selections (Step 4—Incremental Technology Selections) was used to develop national cost estimates for today's proposed rule. Tables VII–11 a and b (surface water) and VII–12 a and b (ground water) show the incremental technology selections shown as the percent change between Stage 1 and Stage 2 DBP rules.

TABLE VII–10.—STAGE 2 DBPR COMPLIANCE FORECAST SUMMARY

Step	Description of Step
1	Model a pre-Stage 1 *baseline scenario* using Information Collection Rule data to allow consistent comparison between different rule alternatives.
2	Model *technology selection* to meet Stage 1 DBPR requirements (Stage 1 DBPR Technology Selection).
3	Model *technology selection* to meet Stage 2 DBPR requirements (Stage 2 DBPR Technology Selection).
4	Subtract the results in Step 2 from Step 3 and adjust to obtain the *incremental impact of an alternative (Stage 2 DBPR incremental technology selection*).

Table VII-11a. Technology Usage for CWS Surface Water Plants - Percent Change From Stage 1 to Stage 2 Compliance

System Size (Population Served)	Converting to CLM Only		Advanced Technologies: Chlorine Dioxide		UV		Ozone		MF/UF		GAC10		GAC10 + Advanced Disinfectants		GAC20		GAC20 + Advanced Disinfectants		Membranes		Total Converting to CLM		Total Adding Technology	
	A		B		C		D		E		F		G		H		I		J		K		L = SUM(A:J)	
≤100	0.8%	4			3.1%	14			0.0%	0					0.0%	0	0.6%	3	0.0%	0	3.0%	14	4.4%	21
101-500	2.1%	17	0.0%	0	0.4%	3	0.0%	0	0.0%	0					0.0%	0	0.7%	6	0.0%	0	3.6%	29	3.3%	26
501-1,000		11		0		2		0		0						0		4		0		18		17
1,001 - 3,300	2.5%	27	0.0%	0	0.5%	5	0.0%	0	0.0%	0					0.0%	0	0.7%	8	0.0%	0	4.0%	45	3.7%	41
3,301-10,000		30		0		6		0		0						0		9		0		49		45
10,001-50,000	3.6%	46	0.4%	5	0.7%	9	0.0%	0	0.0%	0	0.0%	0	0.7%	9	0.4%	5	0.0%	0	0.0%	0	5.1%	66	5.8%	75
50,001-100,000		19		2		4		0		0		0		4		2		0		0		28		31
100,001-1 Million	3.6%	21	0.4%	2	0.7%	4	0.0%	0	0.0%	0	0.0%	0	0.7%	4	0.4%	2	0.0%	0	0.0%	0	5.1%	29	5.8%	33
> 1 Million		3		0		1		0		0		0		1		0		0		0		4		4
Total %, Plants	2.7%	178	0.1%	9	0.7%	49	0.0%	0	0.0%	0	0.0%	0	0.3%	18	0.1%	9	0.4%	29	0.0%	0	4.3%	282	4.5%	293

Note: Detail may not add due to independent rounding (some plant results are rounded to zero if less than 0.5 plants).
Source : Economic Analysis (USEPA 2003i) Exhibit 6.14a

Table VII-11b. Technology Usage for NTNCWS Surface Water Plants - Percent Change From Stage 1 to Stage 2 Compliance

System Size (Population Served)	Converting to CLM Only		Advanced Technologies: Chlorine Dioxide		UV		Ozone		MF/UF		GAC10		GAC10 + Advanced Disinfectants		GAC20		GAC20 + Advanced Disinfectants		Membranes		Total Converting to CLM		Total Adding Technology	
	A		B		C		D		E		F		G		H		I		J		K		L = SUM(A:J)	
≤100	0.8%	2			3.1%	9			0.0%	0					0.0%	0	0.6%	2	0.0%	0	3.0%	9	4.4%	13
101-500	2.1%	6	0.0%	0	0.4%	1	0.0%	0	0.0%	0					0.0%	0	0.7%	2	0.0%	0	3.6%	11	3.3%	10
501-1,000		2		0		0		0		0						0		1		0		4		4
1,001 - 3,300	2.5%	2	0.0%	0	0.5%	0	0.0%	0	0.0%	0					0.0%	0	0.7%	1	0.0%	0	4.0%	3	3.7%	3
3,301-10,000		1		0		0		0		0						0		0		0		1		1
10,001-50,000	3.6%	0	0.4%	0	0.7%	0	0.0%	0	0.0%	0	0.0%	0	0.7%	0	0.4%	0	0.0%	0	0.0%	0	5.1%	0	5.8%	1
50,001-100,000		0		0		0		0		0		0		0		0		0		0		0		0
100,001-1 Million	3.6%	0	0.4%	0	0.7%	0	0.0%	0	0.0%	0	0.0%	0	0.7%	0	0.4%	0	0.0%	0	0.0%	0	5.1%	0	5.8%	0
> 1 Million		0		0		0		0		0		0		0		0		0		0		0		0
Total %, Plants	1.7%	14	0.0%	0	1.4%	11	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.7%	5	0.0%	0	3.5%	28	3.8%	31

Note: Detail may not add due to independent rounding (some plant results are rounded to zero if less than 0.5 plants).
Source : Economic Analysis (USEPA 2003i) Exhibit 6.14b

Table VII-12a. Technology Usage for Disinfecting CWS Ground Water Plants - Percent Change From Stage 1 to Stage 2 Compliance

System Size (Population Served)	CLM Only		UV CL2		UV CLM		Ozone CL2		Ozone CLM		GAC20 CL2		GAC20 CLM		embranes CL2		Membranes CLM		Total Converting to CLM		Total Adding Technology	
	A		B		C		D		E		F		G		H		I		J = A+C+E+G+I		K = SUM(A:I)	
≤100	1.0%	80	0.0%	0	1.3%	98	0.0%	0	0.0%	0	0.4%	33	0.0%	0	0.0%	0	0.0%	0	2.3%	178	2.7%	211
101-500	1.3%	210	0.0%	0	1.4%	225	0.0%	0	0.0%	0	0.2%	25	0.0%	0	0.0%	0	0.0%	0	2.8%	436	2.9%	461
501-1,000		82		0		88		0		0		10		0		0		0		170		180
1,001 - 3,300	1.0%	79	0.0%	0	1.3%	102	0.0%	0	0.0%	0	0.0%	0	0.0%	3	0.0%	0	0.0%	0	2.3%	184	2.3%	184
3,301-10,000		50		0		64		0		0		0		2		0		0		116		116
10,001-50,000	1.4%	76					0.1%	3	0.2%	12	0.0%	0	0.2%	8	0.0%	2	0.2%	11	2.0%	108	2.1%	112
50,001-100,000		10						0		2		0		1		0		2		15		15
100,001-1 Million	1.3%	11					0.1%	0	0.2%	2	0.0%	0	0.1%	1	0.0%	0	0.2%	2	1.9%	16	1.9%	17
> 1 Million		0						0		0		0		0		0		0		0		0
Total %, Plants	1.21%	599	0.00%	0	1.17%	578	0.01%	4	0.03%	15	0.14%	68	0.03%	16	0.00%	2	0.03%	15	2.5%	1,223	2.6%	1,296

Note: Detail may not add due to independent rounding (some plant results are rounded to zero if less than 0.5 plants).
Source : Economic Analysis (USEPA 2003i) Exhibit 6.16a

Table VII-12b. Technology Usage for Disinfecting NTNCWS Ground Water Plants - Percent Change from Stage 1 to Stage 2 Compliance

System Size (Population Served)	CLM Only		UV CL2		UV CLM		Ozone CL2		Ozone CLM		GAC20 CL2		GAC20 CLM		embranes CL2		Membranes CLM		Total Converting to CLM		Total Adding Technology	
	A		B		C		D		E		F		G		H		I		J = A+C+E+G+I		K = SUM(A:I)	
≤100	1.0%	38	0.0%	0	1.3%	46	0.0%	0	0.0%	0	0.4%	15	0.0%	0	0.0%	0	0.0%	0	2.3%	84	2.7%	99
101-500	1.3%	35	0.0%	0	1.4%	38	0.0%	0	0.0%	0	0.2%	4	0.0%	0	0.0%	0	0.0%	0	2.8%	73	2.9%	77
501-1,000		10		0		10		0		0		1		0		0		0		20		21
1,001 - 3,300	1.0%	3	0.0%	0	1.3%	3	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	2.3%	6	2.3%	6
3,301-10,000		0		0		0		0		0		0		0		0		0		1		1
10,001-50,000	1.4%	0					0.1%	0	0.2%	0	0.0%	0	0.2%	0	0.0%	0	0.2%	0	2.0%	0	2.1%	0
50,001-100,000		0						0		0		0		0		0		0		0		0
100,001-1 Million	1.3%	0					0.1%	0	0.2%	0	0.0%	0	0.1%	0	0.0%	0	0.2%	0	1.9%	0	1.9%	0
> 1 Million		0						0		0		0		0		0		0		0		0
Total %, Plants	1.17%	85	0.00%	0	1.34%	98	0.00%	0	0.00%	0	0.28%	21	0.00%	0	0.00%	0	0.00%	0	2.5%	183	2.8%	204

Note: Detail may not add due to independent rounding (some plant results are rounded to zero if less than 0.5 plants).
Source : Economic Analysis (USEPA 2003i) Exhibit 6.16b

F. Estimated Household Costs of the Proposed Rule

This analysis considers the potential increase in a household's water bill if a system passed the entire cost increase resulting from this rule on to their customers. It is a tool to gauge potential impacts and should not be construed as precise estimates of potential changes to individual water bills.

Overall, the potential increase in mean annual water bill per household is estimated to be $8.38 for those systems that need to install technology to comply with this rule. Table VII–13 shows the range of household costs for all surface and ground water systems subject to the rule and also only for those systems installing technology to comply with this rule. For all systems, including those that may not have to take any additional action to comply with this rule but are still subject to its provisions, the mean annual household cost is $0.51. The last two columns of Table VII–13 show the potential impact as the percent of households that will incur either less than a $1 or less than a $10 increase in their monthly water bills (shown in the table as annual values). For systems adding treatment, 84% of households will face less than a $1 increase in their monthly bill, while 99% are expected to face less than a $10 increase.

Table VII-13. Potential Annual Household Cost Impacts

All Households Subject to the Stage 2 DBPR							
	Total Number of Households Served (Percent of Total)	Mean Annual Household Cost Increase	Median Annual Household Cost Increase	90th Percentile Annual Household Cost Increase	95th Percentile Annual Household Cost Increase	Percentage of Annual Household Cost Increase < $12	Percentage of Annual Household Cost Increase < $120
All Systems	98,254,000 (100.0%)	$0.51	$0.02	$0.47	$0.79	99.24%	99.96%
All Small Systems	14,522,000 (100.0%)	$1.66	$0.18	$0.90	$2.96	98.23%	99.74%
SW ≤ 10,000	3,165,000 (3.2%)	$3.72	$0.90	$2.96	$5.51	97.89%	99.09%
SW > 10,000	58,876,000 (59.9%)	$0.34	$0.00	$0.32	$0.33	99.35%	100.00%
GW ≤ 10,000	11,357,000 (11.6%)	$1.08	$0.11	$0.53	$1.37	98.37%	99.92%
GW > 10,000	24,857,000 (25.3%)	$0.23	$0.01	$0.47	$0.47	99.57%	100.00%
Households Served by Plants Adding Treatment							
	Number of Households Served (Percent of Total)	Mean Annual Household Cost Increase	Median Annual Household Cost Increase	90th Percentile Annual Household Cost Increase	95th Percentile Annual Household Cost Increase	Percentage of Household Cost Increase < $12	Percentage of Household Cost Increase < $120
All Systems	4,793,000 (4.9%)	$8.52	$1.22	$20.57	$33.98	84.47%	99.18%
All Small Systems	422,000 (2.9%)	$43.78	$19.05	$117.68	$166.67	39.38%	91.12%
SW ≤ 10,000	142,000 (4.5%)	$60.64	$9.08	$166.67	$270.04	54.36%	79.78%
SW > 10,000	3,868,000 (6.6%)	$5.02	$1.02	$11.58	$23.56	90.16%	99.96%
GW ≤ 10,000	279,000 (2.5%)	$35.18	$19.22	$72.07	$117.68	33.71%	96.94%
GW > 10,000	504,000 (2.0%)	$5.90	$1.33	$26.33	$33.24	78.73%	100.00%

Note: Detail may not to total add due to independent rounding. The last two columns show the % change as < $1 or < $10 increase in monthly water bills

Source : Economic Analysis (USEPA 2003i) Exhibit 6.20

Both household cost estimates reflect costs for rule implementation (*e.g.*, reading and understanding the rule), IDSE, additional routine monitoring, and treatment changes. Although implementation and the IDSE represent relatively small, one-time costs, they have been annualized and included in the analysis to provide a complete picture of household costs.

Overall, EPA estimates that 99 percent of the 98 million households that are provided disinfected drinking water would face less than $1 increase in their monthly water bill. Approximately 86 percent of the households impacted by the rule are served by systems serving at least 10,000 people; these systems experience the lowest increases in costs due to significant economies of scale. Households served by small systems that install advanced technologies will face the greatest increases in annual costs. The cumulative distributions of household costs for all systems are presented in the Economic Analysis (USEPA 2003i).

When interpreting the results of the household cost analysis, it is important to remember that systems, especially small systems, may have other options that were not included in the compliance forecast. For example, the system may identify another water source that may form lower levels of TTHM and HAA5. Systems that can identify such an alternate water source may not have to treat that water as much as their current source, resulting in lower treatment costs that may offset the costs of obtaining water from the alternate source. Systems may also be able to connect to a neighboring water system. While connecting to another system may not be feasible for some remote systems, EPA estimates that more than 22 percent of all small water systems are located within metropolitan regions (USEPA 2000c) where distances between potential connecting water systems may not present a prohibitive barrier. Consolidation was not an element used in developing the compliance forecasts for small systems. Costs for consolidation may be either greater or less than the costs for changing technologies, and consolidation may have other benefits (*e.g.*, lower costs for compliance with future regulations). In addition, potentially lower cost alternatives such as controlling water residence time in the distribution systems were not included in the compliance forecast.

Also, more small systems than projected in the primary analysis may already be in compliance with Stage 2 DBPR. A sensitivity analysis discussed in the subsection VII.D.2 describes this issue in more detail. Also, certain technologies installed to treat DBPs may treat many other contaminants thus eliminating the need to install additional equipment to comply with future drinking water regulations.

G. Incremental Costs and Benefits of the Proposed Stage 2 DBPR

Incremental costs and benefits are those that are incurred or realized in reducing DBP exposures from one alternative to the next more stringent alternative. Estimates of incremental costs and benefits are useful in considering the economic efficiency of different regulatory options considered by the Agency. However, as pointed out by the Environmental Economics Advisory Committee of the Science Advisory Board, efficiency is not the only appropriate criterion for social decision making (USEPA 2000n).

Generally, the goal of an incremental analysis is to identify the regulatory option where net social benefits are maximized. If net incremental benefits

are positive, society is incurring greater costs as a result of the health damages compared to the costs society could pay to reduce those health damages (*i.e.* society would be better off to invest more in controlling the health damage). If net incremental benefits are negative, than the cost of the additional control is higher than the value of the additional health damages avoided. Therefore, the ''efficient'' regulatory level is where the next additional incremental reduction in health damages equals the incremental cost of achieving that reduction. However, the usefulness of this analysis is constrained when major benefits and/or costs are unquantified or not monetized.

For the proposed Stage 2 DBPR, presentation of incremental quantitative benefit and cost comparisons may be unrepresentative of the true net benefits of the rule because a significant portion of the rule's potential benefits are non-quantifiable (*see* section C.1). Tables VII–14 and VII–15 show the total estimated costs and benefits for each alternative. Evaluation of the incremental changes between different rows in the tables shows that incremental costs generally fall within the range of incremental benefits for each more stringent alternative. Equally important, the addition of any benefits attributable to the non-quantified categories would add to the benefits without any increase in costs.

TABLE VII–14.—TOTAL ANNUALIZED PRESENT VALUE COSTS BY RULE ALTERNATIVE

($millions, 2000$)

Rule alternative	Total annualized cost ($millions)					
	3 Percent discount rate			7 Percent discount rate		
	Mean estimate	90 Percent confidence bound		Mean estimate	90 Percent confidence bound	
		Lower (5th % tile)	Upper (95th % tile)		Lower (5th % tile)	Upper (95th % tile)
Preferred	$59.1	$54.3	$63.9	$64.6	$59.2	$70.0
Alt. 1	182.2	165.1	199.6	195.1	175.9	214.3
Alt. 2	409.6	383.6	435.7	442.7	413.4	472.2
Alt. 3	594.3	556.3	631.9	644.2	601.1	686.9

Note: Costs represent values in millions of 2000 dollars. Estimates are discounted to 2003—90 percent Confidence Intervals reflect uncertainty in technology unit cost estimates

Source: Economic Analysis (USEPA 2003i) exhibit 6.24

Table VII-15. Total Annualized Present Value Benefits by Rule Alternative ($millions, 2000$)

	Discount Rate, WTP for Non-Fatal Cases	Preferred Alternative	Alternative 1	Alternative 2	Alternative 3
Number and Value of Estimated Bladder Cancer Cases Avoided[1]					
Causality has not been established; however, the weight of evidence supports PAR estimates of potential benefits. Zero is within the range of potential benefits, but evidence indicates that both the number of cases and the value of preventing those cases could be significant (see below).					
2% PAR					
Average Annual Number of Cases Avoided		21	22	135	161
Annualized Benefits of Cases Avoided (90% Confidence Bounds)[2]	3 %, Lymphoma	$113 ($18 - 258)	$117 ($19 - 268)	$773 ($116 - 1,675)	$873 ($139 - 1,995)
	7 % Lymphoma	$98 ($16 - 224)	$102 ($16 - 232)	$636 ($101 - $1,452)	$757 ($120 - 1,730)
	3 % Bronchitis	$55 ($13 - 120)	$57 (13 - 124)	$356 ($81 - 776)	$424 ($97 - 924)
	7 % Bronchitis	$48 ($11 - 104)	$49 ($11 - 108)	$309 ($71 - 673)	$368 ($84 - 802)
17% PAR Value					
Average Number of Cases Avoided		182	189	1,182	1,408
Annualized Benefits of Cases Avoided (90% Confidence Bounds)[2]	3 %, Lymphoma	$986 ($157 - 2,253)	$1,024 ($163 - 2,340)	$6,398 ($1,016 - 14,619)	$7,621 ($1,211 - 17,415)
	7 % Lymphoma	$854 ($136 - 1,952)	$887 ($141 - 2,027)	$5,546 ($881 - 12,672)	$6,607 ($1,050 - 15,097)
	3 % Bronchitis	$479 ($109 - 1,044)	$498 ($114 - 1,084)	$3,109 ($709 - 6,771)	$3,704 ($845 - 8,066)
	7 % Bronchitis	$415 ($95 - 905)	$431 ($99 - 940)	$2,697 ($616 - 5,871)	$3213 ($734 - 6,995)
Adverse Reproductive and Developmental Health Effects Avoided					
Causality has not been established, and numbers and types of cases avoided, as well as the value of such cases, were not quantified in the primary benefits analysis. Given the numbers of women of child bearing age exposed (58 million), the evidence indicates that the number of cases and the value of preventing those cases could be significant. See results of the illustrative calculation in VII.C.1.					
Other Health Benefits					
Qualitative assessment indicates that the value of other health benefits could be positive and significant.					
Non-Health Benefits					
Qualitative assessment indicates that the value of non-health benefits could be positive.					

1. Based on TTHM as indicator. EPA recognizes that the lower bound estimate may be as low as zero since causality has not yet been established between exposure to chlorinated water and bladder cancer.
2. The 90 percent confidence bounds shown in the exhibit reflect uncertainty in the VSL, WTP, and income elasticity adjustment.
Source: Economic Analysis (USEPA 2003i) exhibit 5.28

The range of quantified benefits increases significantly with Alternatives 2 and 3. However, the associated costs also increase significantly—cost figures presented in Table VII–14 show values approaching or exceeding $500 million

per year. Although the estimated benefits for Alternatives 2 and 3 are potentially significant, EPA rejected these alternatives because the Agency believes that the uncertainty about the health effects data does not warrant the additional expense associated with these regulatory alternatives.

Given the uncertainty in the health effects, and the resulting rejection of Alternatives 2 and 3, a comparison of Alternative 1 with the Preferred Alternative shows that Alternative 1 would have approximately the same benefits as the Preferred Alternative but with greater costs. This results from the inability of the Agency to estimate the additional benefits of reducing the bromate MCL. Alternative 1 was also determined to be unacceptable due to the potential for increased risk of microbial exposure. See section VII.A of today's action for a description of regulatory alternatives.

H. Benefits From the Reduction of Co-Occurring Contaminants

Installing certain technologies to control DBPs also has the added benefit of controlling other drinking water contaminants. For example, some membrane technologies (depending on pore size) installed to reduce DBP precursors can also reduce or eliminate many other drinking water contaminants, including arsenic and microbial pathogens. EPA has finalized a rule to further control arsenic level in drinking water and has proposed the Ground Water Rule to address microbial contamination. The Stage 2 DBPR is also being concurrently proposed with the Long Term 2 Enhanced Surface Water Treatment Rule. Because of the difficulties in establishing which systems would have multiple problems such as microbial contamination, arsenic, and DBPs (or any combination of the three), no estimate was made of the potential cost savings from addressing more than one contaminant simultaneously.

I. Are There Increased Risks From Other Contaminants?

Today's proposed rule may slightly shift the distribution of TTHM and HAAs to brominated species. Some systems, depending on bromide and organic precursor levels in the source water and technology selection, may experience a shift to higher ratios or concentrations of brominated DBPs while the overall TTHM or HAA5 concentration decreases. However, EPA anticipates that this phenomenon may only occur in a small percentage of systems affected. For most systems, overall levels of DBPs, as well as brominated DBP species, should decrease as a result of this rule.

EPA's analysis shows that a large portion of systems that do not currently meet Stage 2 requirements will do so by switching from chlorination to chloramination; approximately 5% of surface water plants and 1.3% of ground water plants in systems serving greater than 10,000 are estimated to convert to chloramination in order to comply with the Stage 2 DBPR from the Stage 1 DBPR (USEPA 2003i). A potential chloramination byproduct is N-nitrosodimethylamine (NDMA), a probable human carcinogen. The concern over the formation of NDMA in the treatment process is based on the compound's ability to persist for a long period of time in the distribution system. The mechanism of formation of NDMA, however, is still under examination. A number of ongoing studies will also evaluate occurrence, factors that affect NDMA formation, mechanisms, treatment effectiveness and improved analytical methods for measuring NDMA.

Another contaminant of concern to the Agency is chlorite. Levels may increase slightly because of technology shifts to chlorine dioxide resulting from this rule but very few systems (<0.1 percent) are predicted to install this technology. However, individual systems will not shift to chlorine dioxide unless they can meet the chlorite MCL (established under the Stage 1 DBPR) which is considered protective of public health.

EPA also considered the impact this rule may have on microbial contamination that may result from altering disinfection practices. To address this concern, the Agency developed this rule jointly with the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR). EPA expects that the LT2ESWTR provisions will prevent significant increases in microbial risk resulting from the Stage 2 DBPR. EPA also expects the Ground Water Rule, scheduled for promulgation in 2003, to prevent any increases in microbial risk in ground water systems deemed vulnerable to source water contamination.

J. Effects on General Population and Subpopulation Groups

Section III of today's proposed rule discusses the health effects associated with DBPs on the general population as well as the effects on pregnant women and fetuses. In addition, health effects associated with children and pregnant women are discussed in greater detail in subsection VIII.G of this preamble.

K. Uncertainties in Baseline, Risk, Benefit, and Cost Estimates

Today's proposal models the current baseline risk from DBP exposure as well as the reduction in risk and the cost for various rule options. There is uncertainty regarding many aspects of this analysis including the risk calculation, the benefit estimate, and the cost estimates. EPA has tried to capture much of the uncertainty and also the variability associated with many of the inputs used in the economic analysis by using distributions or ranges as model inputs instead of point estimates whenever possible. The Stage 2 DBPR EA contains a more extensive discussion of the modeling techniques used to address uncertainty and variability (USEPA 2003i).

In addition, the Agency conducted sensitivity analyses to address uncertainty. The sensitivity analyses focus on various benefit and cost factors that may have a significant influence on the outcome of the rule. All of these sensitivity analyses are explained in more detail in the EA for the Stage 2 DBPR (USEPA 2003i).

The major source of benefit uncertainty is the scientific uncertainty regarding the impact of DBP exposure on reproductive and developmental outcomes. However, the Agency believes that the monetized value of these outcomes could be significant. As discussed in subsection VII.C.1, EPA performed an illustrative calculation that explored the potential implications for the proposed rule using some of the published results on fetal loss, but did not attempt to quantify benefits associated with reducing other reproductive and developmental endpoints potentially associated with DBP exposure.

Another possible underestimation of today's monetized benefits results from the inability of the Agency to quantify or monetize the potential benefit from avoiding other cancers associated with DBP exposure such as colon and rectal cancers. Furthermore, while the Agency estimated the range of bladder cancer risks avoided to be 0 to 182 cases per year, the true risk of bladder cancer avoided from decreased DBP exposure may be higher than this range.

While EPA believes it has accounted for the significant costs of today's proposed rule, there are uncertainties about some of the cost inputs. As discussed in subsection VII.D.4, cost estimates do not include some alternatives to installing treatment (*e.g.*, improving management of distribution system residence time) that may be a less costly means of complying with the

Stage 2 DBPR. The Agency also explored two additional uncertainties which might have the greatest impact on our current estimates by conducting sensitivity analyses. These include the impact of IDSE monitoring and the possibility that the primary analysis overestimates the compliance forecast for small surface water systems and all ground water systems. A detailed discussion of these analyses can be found in chapter 7 of the Economic Analysis (USEPA 2003i).

Last, EPA has recently proposed or finalized new regulations for arsenic, radon, and microbials in ground water systems (Ground Water Rule); *Cryptosporidium* in small surface water systems and filter backwash in all system sizes (LT1ESWTR and Filter Backwash Rule); as well as concurrently proposing additional microbial control in surface water systems (Long Term 2 Enhanced Surface Water Treatment Rule). These rules may have overlapping impacts on some drinking water systems but it is not possible to estimate these because of lack of information on co-occurrence. However, it is possible for a system to choose treatment technologies that would address multiple contaminants. Therefore, the total cost impact of these drinking water rules is uncertain; however, it may be less than the estimated total cost of all individual rules combined.

L. Benefit/Cost Determination for the Proposed Stage 2 DBPR

The Agency has determined that the quantified and unquantified benefits of the proposed Stage 2 DBPR justify the costs. As discussed previously, the main concern for the Agency and the Advisory Committee involved in the Stage 2 rulemaking process was to address potential reproductive and developmental impacts associated with exposure to high DBP levels. The proposed rule achieves this objective using the least cost alternative by modifying how the annual average DBP level is calculated. This will reduce both average DBP levels associated with bladder cancer (and possibly other cancers) and peak DBP levels which are potentially associated with reproductive and developmental effects. In addition, this rule may reduce uncertainty about drinking water quality and may allow some systems to avoid installing additional technology to meet future drinking water regulations.

Compared to other rule options consider by the Agency, the proposed rule option is also the most cost-effective. The cost-effectiveness analysis compares the annual dollar cost of the rule to the annual number of bladder cancer cases potentially avoided. For bladder cancer reduction, the cost per case avoided for the proposed rule would be $0.3 million if the PAR is 17%, and $3.1 million if the PAR is 2%, and also varies depending on the discount rate used.

M. Request for Comment

The Agency requests comment on all aspects of the rule's economic impact analysis. Specifically, EPA seeks input into the following issues: (1) To what extent can systems install treatment to address multiple contaminants?; (2) Are there methods for monetizing potential reproductive and developmental endpoints associated with DBP exposure?; (3) To what extent will use of chloramination increase levels of NDMA and potentially associated health risks, and how should this be considered in this rule making; and (4) How should the Agency value nonfatal cancers? Specifically, EPA uses a range of severities to calculate the WTP estimate to avoid a case of chronic bronchitis. Should the Agency only consider the most severe case of chronic bronchitis as a better proxy for a non-fatal cancer? Also, should the Agency use the risk-risk trade-off estimate of WTP to avoid a case of chronic bronchitis instead of the risk-dollar trade-off estimate (see the EA (USEPA 2003i) for a complete discussion of these issues)?

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the 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 governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action.'' As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been 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 Request (ICR) document prepared by EPA has been assigned ICR No. 2068.01 (USEPA 2003m).

The information collected as a result of this rule will allow the States and EPA to determine appropriate requirements for specific systems, and to evaluate compliance with the rule. For the first 3 years after Stage 2 DBPR promulgation, the major information requirements involve monitoring activities, which include conducting the IDSE and submission of the IDSE report, and tracking compliance. The information collection requirements are mandatory (Part 141), and the information collected is not confidential.

The estimate of annual average burden hours for the Stage 2 DBPR for systems and States is 248,568 hours. This estimate covers the first three years of the Stage 2 DBPR and includes implementation of Stage 2A and most of the IDSE (small system reports are not due until the fourth year). The annual average aggregate cost estimate is $18.0 million for operation and maintenance as a purchase of service for lab work, and $6.8 million is associated with labor. The annual burden hour per response is 2.59 hours. The frequency of response (average responses per respondent) is 11.8 annually. The estimated number of likely respondents is 8,131 per year (the product of burden hours per response, frequency, and respondents does not total the annual average burden hours due to rounding). Because disinfecting systems have already purchased basic monitoring equipment to comply with the Stage 1 DBPR, EPA assumes no capital start-up costs are associated with the Stage 2 DBPR ICR.

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 in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rule, which includes this ICR, under Docket ID No. OW–2002–0043. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, *Attention:* Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 18, 2003, a comment to OMB is best assured of having its full effect if OMB receives it by September 17, 2003. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Analysis (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, ''which are appropriate to the activities of the agency'' after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3) through (5). In addition to the above, to establish an alternative small business definition, agencies must consult with SBA's Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's proposed rule on small entities, EPA considered small entities to be public water systems serving 10,000 or fewer persons. This is the cut-off level specified by Congress in the 1996 Amendments to the Safe Drinking Water Act for small system flexibility provisions. In accordance with the RFA requirements, EPA proposed using this alternative definition in the **Federal Register** (63 FR 7620 (February 13, 1998)), requested public comment, consulted with the Small Business Administration (SBA), and expressed its intention to use the alternative definition for all future drinking water regulations in the Consumer Confidence Reports regulation (63 FR 44511 (August 19, 1998)). As stated in that final rule, the alternative definition is applied to this regulation.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that 75 small systems using surface water or ground water under the direct influence of surface water (GWUDI), which are 1.67% of all such systems affected by the Stage 2 DBPR, will experience an impact of greater than or equal to 1% of their revenues, and 49 small systems using surface water or GWUDI, which are 1.09% of all such systems affected by the Stage 2 DBPR, will experience an impact of greater than or equal to 3% of their revenues; further, 109 small ground water systems, which are 0.28% of all such systems affected by the Stage 2 DBPR, will experience an impact of greater than or equal to 1% of their revenues, and 38 small ground water systems, which are 0.10% of all such systems affected by the Stage 2 DBPR, will experience an impact of greater than or equal to 3% of their revenues (*see* Tables VIII–1 and VIII–2).

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Table VIII-1. Annualized Compliance Cost as a Percentage of Revenues or Expenditures for All Small Entities Using Surface Water and GWUDI.

Entity by System Size	Number of Small Systems (Percent)		Average Annual Estimated Revenues[1] per System ($)	Experiencing Costs of ≥1% of their Revenues		Experiencing Costs of ≥3% of their Revenues	
				Percent of Systems	Number of Systems	Percent of Systems	Number of Systems
	A		B	E	F=A*E	G	H=A*G
Small Governments	**2,238**	**50%**	**$2,396,249**	**1.67%**	**37**	**1.09%**	**24**
<100	384		$2,396,249	1.27%	5	0.00%	-
101-500	513		$2,396,249	1.53%	8	1.17%	6
501-1,000	283		$2,396,249	1.58%	4	1.46%	4
1,001-3,300	538		$2,396,249	1.79%	10	1.32%	7
3,301-10,000	519		$2,396,249	5.61%	29	3.71%	19
Small Businesses	**1,835**	**41%**	**$2,391,978**	**1.67%**	**31**	**1.09%**	**20**
<100	315		$2,391,978	1.27%	4	0.00%	-
101-500	421		$2,391,978	1.57%	7	1.17%	5
501-1,000	232		$2,391,978	1.58%	4	1.46%	3
1,001-3,300	441		$2,391,978	1.79%	8	1.32%	6
3,301-10,000	426		$2,391,978	5.61%	24	3.71%	16
Small Organizations	**403**	**9%**	**$4,446,165**	**1.27%**	**5**	**0.76%**	**3**
<100	69		$4,446,165	0.00%	-	0.00%	-
101-500	92		$4,446,165	1.44%	1	0.61%	1
501-1,000	51		$4,446,165	1.46%	1	0.75%	0
1,001-3,300	97		$4,446,165	1.32%	1	0.93%	1
3,301-10,000	94		$4,446,165	5.02%	5	3.71%	3
All Small Entities	**4,476**	**100%**	**$2,578,991**	**1.67%**	**75**	**1.09%**	**49**
<100	768		$2,578,991	1.27%	10	0.00%	-
101-500	1,027		$2,578,991	1.44%	15	1.17%	12
501-1,000	567		$2,578,991	1.58%	9	1.46%	8
1,001-3,300	1,075		$2,578,991	1.55%	17	1.32%	14
3,301-10,000	1,039		$2,578,991	5.61%	58	3.71%	39

[1] Revenue information was used whenever available. When it was not available, different measures, such as sales or annual operating expenditures, were used. Data were not available to differentiate revenue by system size.

Note: Detail may not add due to independent rounding.

Source: Economic Analysis (USEPA 2003i)

Table VIII-2. Annualized Compliance Cost as a Percentage of Revenues or Expenditures for All Small Entities Using Ground Water Only.

Entity by System Size	Number of Small Systems (Percent)		Average Annual Estimated Revenues[1] per System ($)	Experiencing Costs of ≥1% of their Revenues		Experiencing Costs of ≥3% of their Revenues	
				Percent of Systems	Number of Systems	Percent of Systems	Number of Systems
	A		B	E	F=A*E	G	H=A*G
Small Governments	**19,133**	**50%**	**$2,396,249**	**0.28%**	**54**	**0.10%**	**19**
<100	5,641		$2,396,249	0.00%	-	0.00%	-
101-500	7,269		$2,396,249	0.13%	9	0.00%	-
501-1,000	2,403		$2,396,249	0.75%	18	0.07%	2
1,001-3,300	2,599		$2,396,249	1.26%	33	0.04%	1
3,301-10,000	1,221		$2,396,249	1.32%	16	1.32%	16
Small Businesses	**15,689**	**41%**	**$2,391,978**	**0.28%**	**44**	**0.10%**	**16**
<100	4,625		$2,391,978	0.00%	-	0.00%	-
101-500	5,960		$2,391,978	0.13%	8	0.00%	-
501-1,000	1,970		$2,391,978	0.75%	15	0.07%	1
1,001-3,300	2,131		$2,391,978	1.26%	27	0.04%	1
3,301-10,000	1,001		$2,391,978	1.32%	13	1.32%	13
Small Organizations	**3,444**	**9%**	**$4,446,165**	**0.10%**	**4**	**0.01%**	**0**
<100	1,015		$4,446,165	0.00%	-	0.00%	-
101-500	1,308		$4,446,165	0.00%	-	0.00%	-
501-1,000	433		$4,446,165	0.14%	1	0.00%	-
1,001-3,300	468		$4,446,165	0.04%	0	0.02%	0
3,301-10,000	220		$4,446,165	1.32%	3	0.04%	0
All Small Entities	**38,265**	**100%**	**$2,578,991**	**0.28%**	**109**	**0.10%**	**38**
<100	11,282		$2,578,991	0.00%	-	0.00%	-
101-500	14,537		$2,578,991	0.13%	19	0.00%	-
501-1,000	4,806		$2,578,991	0.14%	7	0.07%	3
1,001-3,300	5,198		$2,578,991	1.26%	66	0.04%	2
3,301-10,000	2,443		$2,578,991	1.32%	32	1.32%	32

[1] Revenue information was used whenever available. When it was not available, different measures, such as sales or annual operating expenditures, were used. Data were not available to differentiate revenue by system size.
Note: Detail may not add due to independent rounding.
Source: Economic Analysis (USEPA 2003i)

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As a result of the input received from stakeholders, the EPA workgroup, the Advisory Committee, and other interested parties, EPA has developed MCLs using locational running annual averages (LRAA) of 0.080 and 0.060 mg/L for TTHM and HAA5 respectively, in combination with Initial Distribution Systems Evaluations (IDSE), as the preferred Stage 2 DBPR option. LRAAs are running annual averages calculated for each sample location in the distribution system. Since many small systems only monitor at one location, they will effectively base their compliance with the Stage 1 DBPR on an LRAA and therefore will not be significantly affected by the Stage 2 DBPR. In addition to meeting the MCLs for TTHM and HAA5, systems will be required to conduct IDSEs. The purpose of the IDSE is to identify compliance monitoring sites representing high TTHM and HAA5 levels in the distribution system. According to the Stage 2 DBPR Economic Analysis (USEPA 2003i), only 17% of all small water systems will conduct IDSE monitoring because small NTNCWSs are exempt from IDSE monitoring, systems serving fewer than 500 people may receive a waiver from their States, and other systems are eligible for a 40/30 certification if all compliance monitoring samples have been ≤ 0.040 and ≤ 0.030 mg/L for TTHM and HAA5 respectively during the previous two years. A large number of small ground water systems will qualify for this certification. This provision is described in more detail in section V.H. of this preamble.

Although not required by the RFA to convene a Small Business Advocacy

Review (SBAR) Panel because EPA determined that this proposal would not have a significant economic impact on a substantial number of small entities, EPA did convene a panel to obtain advice and recommendations from representatives of the small entities potentially subject to this rule's requirements.

Before convening the SBAR Panel, EPA consulted with a group of 24 SERs likely to be impacted by the Stage 2 M–DBP Rules. The SERs included small system operators, local government officials, and small nonprofit organizations. The SERs were provided with background information on the Safe Drinking Water Act, Stage 1 DBPR, IESWTR, and Stage 2 DBPR alternatives and unit cost analyses resulting from using different technologies to meet the required MCLs in preparation for the teleconferences on January 28, 2000, February 25, 2000, and April 7, 2000. This information package included data on options and preliminary unit costs for treatment enhancements under consideration. It is important to note that, since EPA did not consider the IDSE requirements until after these consultations with SERs and the SBAR panel, no comments were received on the IDSE requirements from the SERs or the SBAR panel. However, small system representatives were included in the Advisory Committee that recommended the IDSE.

During these conference calls, the information was discussed and EPA provided feedback and noted these initial SER comments. Following the calls, the SERs were asked to provide input on the potential impacts of the rule. Seven SERs provided written comments on these materials. These comments were provided to the SBAR Panel when the Panel convened in April 25, 2000. After a teleconference between the SERs and the Panel on May 25, 2000, the SERs were invited to provide additional comments on the information provided. Seven SERs provided additional comments on the rule components.

In general, the SERs consulted on the Stage 2 M–DBP rules were concerned about the impact of these proposed rules on small water systems. They were particularly concerned with acquiring the technical and financial capability to implement requirements, maintaining flexibility to tailor requirements to their needs, and the limitations of small systems.

The Small Business Advocacy Review (SBAR) Panel members for the Stage 2 DBPR were: the Small Business Advocacy Chair of the Environmental Protection Agency, the Chief of the Standards and Risk Reduction Branch of the Office of Ground Water and Drinking Water within EPA's Office of Water, the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel for Advocacy of the Small Business Administration. The Panel convened on April 25, 2000, and met five times before the end of the 60-day Panel period on June 23, 2000. The SBAR Panel's report, ''Final Report of the Small Business Advocacy Review Panel on Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) and Long-Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR)'', the Small Entity Representatives (SERs) comments on components of the Stage 2 MDBP Rules, and the background information provided to the SBAR Panel and the SERs are available for review in the Office of Water Docket.

Today's proposal takes into consideration the recordkeeping and reporting concerns identified by the Panel and the SERs. The Panel recommended that EPA evaluate ways to minimize the rule recordkeeping and reporting burdens by ensuring that States have appropriate capacity for rule implementation and that EPA provide as much monitoring flexibility as possible to small systems. Continuity with the Stage 1 DBPR was maintained to the extent possible to ease the transition to the Stage 2 DBPR, especially for small systems. EPA's decision to maintain the same MCLs for TTHM and HAA5 will also help to minimize the additional implementation burden. Generally, routine monitoring will be similar in frequency to monitoring for the Stage 1 DBPR, and systems with low DBP levels will still be eligible for reduced monitoring. Many small systems will conduct the same amount of monitoring for the Stage 2 DBPR as for the Stage 1 DBPR. Surface and ground water community water systems (CWSs) serving 500 to 9,999 people and ground water systems serving at least 10,000 people may be required to add one sampling site and take an additional quarterly TTHM/HAA5 sample at that site. Also, EPA has specified consecutive system requirements; these will be new requirements in States where consecutive systems are not required to comply with some or all Stage 1 DBPR requirements. As noted before, since some small systems will be effectively complying with such requirements under the Stage 1 DBPR, the Stage 2 DBPR will not impose any additional burden on them.

The Panel also noted the concern of several SERs that flexibility should be provided in the compliance schedule of the rule. SERs noted the technical and financial limitations that some small systems will have to address, the significant learning curve for operators with limited experience, and the need to continue providing uninterrupted service as reasons why additional compliance time may be needed for small systems. The panel encouraged EPA to keep these limitations in mind in developing the proposed rule and provide as much compliance flexibility to small systems as is allowable under the SDWA. EPA believes that the proposed compliance schedules provides sufficient time for small systems to achieve compliance.

Under the proposed LT2ESWTR, certain subpart H systems with low levels of indicators such as *E. coli* will not have to monitor for *Cryptosporidium*. The efficacy of *E. coli* as an indicator will be evaluated using the large system data. Thus, small systems *E. coli* monitoring cannot be initiated until large and medium system monitoring has been completed. The LT2ESWTR compliance time line for small systems thus lags 1.5 to 2.5 years behind the large and medium systems; timeline. Because the Stage 2 DBPR must be implemented on a simultaneous schedule, the compliance timeline is similarly delayed 1.5 to 2.5 years behind large and medium systems. In addition, if capital improvements are necessary for a particular PWS to comply, a State may allow the system up to an additional two years to comply with the MCL. The Agency is developing guidance manuals to assist small entities with their compliance efforts.

The Panel considered a wide range of options and regulatory alternatives for providing small businesses with flexibility in complying with the Stage 2 DBPR. The Panel recognized the concern shared by most stakeholders regarding the need to reduce DBP variability in the distribution system. This concern comes from recent studies that, while not conclusive, suggest that there may be adverse reproductive effects associated with relatively short-term exposure to high levels of DBPs. Many small systems will be monitoring at only a single point in the distribution system (designed to represent the point of maximum TTHM and HAA5 exposure), and many small systems will be monitoring only once during the year, at a time which corresponds to the season with the highest potential occurrence.

Since there is a chance for this single sample to exceed an MCL, today's proposal requires systems that exceed an MCL on an annual or less frequent sample to begin increased (quarterly) monitoring rather than immediately being in violation of the MCL. The system must comply with the MCL as an LRAA once it has collected four quarterly samples. This allows small systems to generally monitor less frequently (to reduce their monitoring burden) during the period when the highest DBP levels are expected (to protect public health) without penalizing them (by requiring them to meet an MCL that would effectively be based on a single highest value if the systems were immediately in violation after a single sample exceeds an MCL). This compliance determination is consistent with requirements for systems that monitor quarterly for whom compliance is based on the compliance monitoring results of the previous four quarters.

It is important to note that based on the IDSE results, some small systems will have a high TTHM site that is different from the high HAA5 site. These systems will need to monitor at two sites under the Stage 2 DBPR. EPA believes that an approach based on compliance with 0.080 mg/L TTHM and 0.060 mg/L HAA5 LRAAs is an effective way of addressing concerns regarding locational variability.

In addressing seasonal variability, the Panel was concerned about a regulatory alternative requiring compliance with 0.080 mg/L TTHM and 0.060 mg/L HAA5 single highest value MCL (Alternative 2), because it would impose significant additional cost on some small systems. The Panel recommended that EPA instead explore an approach under which individual high values might trigger additional assessment and/or notification requirements, rather than an MCL violation.

EPA agrees with the panel recommendations on a single highest value MCL. Under today's proposal, public water systems are required to maintain a record of TTHM and HAA5 concentrations detected at each sample location. As part of the sanitary survey process, systems are required to conduct an evaluation and consult with their State regarding significant excursions in TTHM and HAA5 occurrence that have occurred. EPA is developing guidance for public water systems and States on how to identify significant excursions and conduct significant excursion evaluations, and how to reduce DBP levels through actions such as distribution system operational changes (USEPA 2003n) (Section V.E.).

The Panel noted the strong concerns expressed by some SERs about the uncertainty in the current scientific evidence regarding health effects from exposure to DBPs, particularly regarding short term exposure. A Panel member recommended that EPA give further serious consideration to making a determination that the currently available scientific evidence does not warrant imposing additional regulatory requirements beyond those in the Stage 1 DBPR at this time. This Panel member recommended that EPA instead continue to vigorously fund ongoing research in health effects, occurrence, and appropriate treatment techniques for DBPs, and reconsider whether additional requirements are appropriate during its next SDWA required six-year review of the standard. This panel member also recommended that EPA separately explore whether adequate data exist to warrant regulation of NTNCWSs at a national level at this time.

EPA has considered these recommendations and believes the Stage 2 DBPR is needed at this time to protect public health. EPA's main mission is the protection of human health and the environment. When carrying out this mission, EPA must often make regulatory decisions with less than complete information and with uncertainties in the available information. EPA believes it is appropriate and prudent to err on the side of public health protection when there are indications that exposure to a contaminant may present risks to public health, rather than take no action until risks are unequivocally proven. Therefore, while recognizing the uncertainties in the available information, EPA believes that the weight of evidence represented by the available epidemiology and toxicology studies on chlorinated water and DBPs supports a hazard concern and a protective public health approach to regulation. In addition, EPA has an ongoing research program to study DBP health effects, occurrence, and treatment.

EPA continues to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

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 UMRA section 202, 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 promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this 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. Based on total estimated nominal costs incurred by year, costs for public or private systems are not expected to exceed $100 million in any one year. In addition, total estimated annualized costs of this rule are $59 to $65 million for all systems, including labor burdens that States would face, such as training employees on the requirements of the Stage 2 DBPR, responding to PWS reports, and record keeping. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that the Stage 2 DBPR contains no regulatory requirements that might significantly or uniquely affect small governments (see Tables VIII–1 and VIII–2). Since the Stage 2 DBPR affects all size systems

and the impact on small entities will be 0.00 to 0.11 percent of revenues, the Stage 2 DBPR is not subject to the requirements of section 203 of UMRA.

Nevertheless, in developing this rule, EPA consulted with small governments (*see* sections VIII.B., VIII.C. and VIII.F.). In preparation for the proposed Stage 2 DBPR, EPA conducted an analysis of small government impacts and included small government officials or their designated representatives in the rulemaking process. As noted previously, a variety of stakeholders, including small governments, had the opportunity for timely and meaningful participation in the regulatory development process through the SBREFA process, public stakeholder meetings, and Tribal meetings. Representatives of small governments took part in the SBREFA process for this rulemaking and they attended public stakeholder meetings. Through such participation and exchange, EPA notified several potentially affected small governments of requirements under consideration and provided officials of affected small governments with an opportunity to have meaningful and timely input into the development of this regulatory proposal.

The Agency has developed fact sheets that describe requirements of the proposed Stage 2 DBPR. These fact sheets are available by calling the Safe Drinking Water Hotline at 800–426–4791.

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 proposed rule will not have federalism implications. It will not impose substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule has one-time costs for implementation of approximately $68.5 million. Thus, Executive Order 13132 does not apply to this rule.

Although Executive Order 13132 does not apply to this rule, EPA did consult with State and local officials in developing this proposed regulation. On February 20, 2001, EPA held a dialogue on both the Stage 2 DBPR and LT2ESWTR with representatives of State and local governmental organizations including those that represent elected officials. Representatives from the following organizations attended the consultation meeting: Association of State Drinking Water Administrators (ASDWA), the National Governors' Association (NGA), the National Conference of State Legislatures (NCSL), the International City/County Management Association (ICMA), the National League of Cities (NLC), the County Executives of America, and health departments. At the consultation meeting, questions ranged from a basic inquiry into how *Cryptosporidium* gets into water to more detailed queries about anticipated implementation guidance, procedures, and schedules. No concerns were expressed. Some of the State and local organizations who attended the governmental dialogue on upcoming microbial and disinfection byproduct rulemakings were also participants in the Advisory Committee meetings and signed the Agreement in Principle. In addition, EPA consulted with a mayor in the SBREFA consultation described in section VIII B.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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 9, 2000), requires EPA to develop ''an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''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.''

Under Executive Order 13175, EPA may not issue a regulation that has Tribal 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 Tribal governments, or EPA consults with Tribal officials early in the process of developing the proposed regulation and develops a Tribal summary impact statement.

EPA has concluded that this proposed rule may have Tribal implications because it may impose substantial direct compliance costs on Tribal governments, and the Federal government will not provide the funds necessary to pay those costs.

Total Tribal costs are estimated to be approximately $199,372 per year (at a 3 percent discount rate) and this cost is distributed across 559 Tribal systems. The cost for individual systems depend on system size and source water type. Of the 559 Tribes that may be affected in some form by the Stage 2 DBPR, 502 use ground water as a source and 57 systems use surface water or GWUDI. Since the majority of Tribal systems are ground water systems serving fewer than 500 people, less than 10 percent of all Tribal systems will likely have to conduct an IDSE. As a result, the Stage 2 DBPR is most likely to have an impact on Tribes using surface water or GWUDI serving more than 500 people. Accordingly, EPA provides the following Tribal summary impact statement as required by section 5(b) of Executive Order 13175. EPA provides further detail on Tribal impact in the *Economic Analysis for the Stage 2 Disinfectants and Disinfection Byproduct Rule* (USEPA 2003i).

EPA consulted with Tribal officials early in the process of developing this regulation to permit them to have meaningful and timely input into its development. Consistent with Executive Order 13175, EPA engaged in outreach and consultation efforts with Tribal officials in the development of this proposed regulation. The most long-term participation of Tribes was on the Advisory Committee through a representative of the All Indian Pueblo Council (AIPC), which is associated with approximately 20 Tribes.

In addition to obtaining Tribal input during the Advisory Committee negotiations, EPA presented the Stage 2 DBPR at the 16th Annual Consumer Conference of the National Indian Health Board, the Environmental Council's Annual Conference, and the EPA/Inter-Tribal Council of Arizona, Inc. Over 900 attendees representing Tribes from across the country attended the National Indian Health Board's Consumer Conference and over 100

Tribes were represented at the annual conference of the National Tribal Environmental Council. Representatives from 15 Tribes participated at the EPA/Inter-Tribal Council of Arizona meeting. At the first two conferences, an EPA representative conducted workshops on EPA's drinking water program and upcoming regulations, including the Stage 2 DBPR. EPA sent the presentation materials and a meeting summary to over 500 Tribes and Tribal organizations.

Fact sheets describing the requirements of the proposed rule and requesting Tribal input were distributed at an annual EPA Tribal meeting in San Francisco, and at a Native American Water Works Association meeting in Scottsdale, Arizona. EPA also worked through its Regional Indian Coordinators and the National Tribal Operations Committee to raise awareness of the development of the proposed rule. EPA mailed fact sheets on the Stage 2 DBPR to all of the federally recognized Tribes in November 2000, as well as the Tribal Caucus of the National Tribal Operations Committee.

A few Tribes responded by requesting more information and expressing concern about having to implement too many regulations. Some members of the Tribal Caucus noted that the rule would have a benefit. They also expressed a concern about infrastructure costs and the lack of funding attached to the rule. In response to one Tribal representative's comments on the November 2000 mailout, EPA explained the health protection benefit expected to be gained by this proposed rule. EPA also directed those who asked for more information to the Agreement in Principle on the EPA Web site.

EPA also held a teleconference for Tribal representatives on January 24, 2002. Prior to the teleconference, invitations were sent to all of the Federally-recognized Tribes, along with fact sheets explaining the rule. Twelve Tribal representatives and four regional Tribal Program Coordinators attended. The Tribal representatives requested further explanation of the rule and expressed concerns about funding sources. EPA also received calls from Tribes after the teleconference which provided EPA with further feedback. In the spirit of Executive Order 13175, and consistent with EPA policy to promote consultation between EPA and Tribal governments, EPA specifically solicits additional comment on this proposed rule from Tribal officials.

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: (1) Is determined to be ''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.

While this proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, EPA nonetheless has reason to believe that the environmental health or safety risk (*i.e.,* the risk associated with DBPs) addressed by this action may have a disproportionate effect on children. As a matter of EPA policy, we have therefore assessed the environmental health or safety effect of DBPs on children. EPA has consistently and explicitly considered risks to infants and children in all assessments developed for this rulemaking. The results of the assessments are contained in section III of this preamble, *Health Risks to Fetuses, Infants, and Children: A Review* (USEPA 2003a), and in the Economic Analysis (USEPA 2003i). A copy of all documents has been placed in the public docket for this action.

EPA's Office of Water has historically considered risks to sensitive subpopulations (including fetuses, infants, and children) in establishing drinking water assessments, health advisories or other guidance, and standards (USEPA 1989c and USEPA 1991a). Waterborne disease from pathogens in drinking water is a major concern for children and other subgroups (elderly, immune compromised, pregnant women) because of their increased vulnerabilities (Gerba *et al.* 1996). There is a concern for potential reproductive and developmental risks posed by DBPs to children and pregnant women (USEPA 1994b; USEPA 1998c, Reif *et al.* 2000; Tyl, 2000). Specific to this action, human epidemiology and animal toxicology studies on DBPs have shown potential increased risks for spontaneous abortion, still birth, neural tube defects, cardiovascular effects and low birth weight. This rule is designed to lower those risks. EPA has provided an illustrative calculation of potential fetal losses avoided in section VII.C.1.

Section V.D of this preamble presents the regulatory alternatives that EPA evaluated for the proposed Stage 2 DBPR, and the Economic Analysis (USEPA 2003i) provides a more detailed discussion. The Agency considered four alternatives involving different MCLs and different compliance calculations. The proposed alternative was recommended by the Advisory Committee and selected by EPA as the Preferred Regulatory Alternative because it provides significant public health benefits for an acceptable cost. EPA's analysis of benefits and costs indicates that the proposed alternative is superior among those evaluated with respect to maximizing net benefits, as shown in the Economic Analysis (USEPA 2003i). The result of the Stage 2 DBPR may include a reduction in reproductive and developmental risk to children and pregnant women and a reduction in cancer risk.

It should also be noted that the LT2ESWTR, which will be implemented at the same time as this proposed rule, provides better controls of pathogens and achieves the goal of increasing microbial drinking water protection for children. The public is invited to submit or identify peer-reviewed studies and data, of which EPA may not be aware that assessed results of early life exposure to DBPs.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

The proposed Stage 2 DBPR 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 determination is based on the following analysis.

The first consideration is whether the Stage 2 DBPR would adversely affect the supply of energy. The Stage 2 DBPR does not regulate power generation, either directly or indirectly. The public and private utilities that the Stage 2 DBPR regulates do not, as a rule, generate power. Further, the cost increases borne by customers of water utilities as a result of the Stage 2 DBPR are a low percentage of the total cost of water, except for a very few small systems that might install advanced technologies that must spread that cost over a narrow customer base. Therefore,

the customers that are power generation utilities are unlikely to face any significant effects as a result of the Stage 2 DBPR. In sum, the Stage 2 DBPR does not regulate the supply of energy, does not generally regulate the utilities that supply energy, and is unlikely significantly to affect the customer base of energy suppliers. Thus, the Stage 2 DBPR would not translate into adverse effects on the supply of energy.

The second consideration is whether the Stage 2 DBPR would adversely affect the distribution of energy. The Stage 2 DBPR does not regulate any aspect of energy distribution. The utilities that are regulated by the Stage 2 DBPR already have electrical service. As derived later in this section, the proposed rule is projected to increase peak electricity demand at water utilities by only 0.007 percent. Therefore, EPA estimates that the existing connections are adequate and that the Stage 2 DBPR has no discernable adverse effect on energy distribution.

The third consideration is whether the Stage 2 DBPR would adversely affect the use of energy. Because some drinking water utilities are expected to add treatment technologies that use electrical power, this potential impact is evaluated in more detail. The analyses that underlay the estimation of costs for the Stage 2 DBPR are national in scope and do not identify specific plants or utilities that may install treatment in response to the rule. As a result, no analysis of the effect on specific energy suppliers is possible with the available data. The approach used to estimate the impact of energy use, therefore, focuses on national-level impacts. The analysis estimates the additional energy use due to the Stage 2 DBPR, and compares that to the national levels of power generation in terms of average and peak loads.

The first step in the analysis is to estimate the energy used by the technologies expected to be installed as a result of the Stage 2 DBPR. Energy use is not directly stated in *Technologies and Costs for Control of Microbial Contaminants and Disinfection By-Products* (USEPA 2003k), but the annual cost of energy for each technology addition or upgrade necessitated by the Stage 2 DBPR is provided. An estimate of plant-level energy use is derived by dividing the total energy cost per plant for a range of flows by an average national cost of electricity of $0.076/kilowatt hours per year (kWh/yr) (U.S. Department of Energy, Energy Information Administration (USDOE EIA) 2002). These calculations are shown in detail in Chapter 8 of the *Economic Analysis for the Stage 2 DBPR* (USEPA 2003i). The energy use per plant for each flow range and technology is then multiplied by the number of plants predicted to install each technology in a given flow range. The energy requirements for each flow range are then added to produce a national total. No electricity use is subtracted to account for the technologies that may be replaced by new technologies, resulting in a conservative estimate of the increase in energy use. Table VIII–3 shows the estimated energy use for each Stage 2 DBPR compliance technology in kilowatt hours per year (kWh/yr). The incremental national annual energy usage is 0.08 million megawatt-hours (mWh).

Table VIII-3. Total Increased Annual National Energy Usage Attributable to the Stage 2 DBPR

Technology	Number of Plants Selecting the Technology (a)	Total Increase in Energy Usage as a Result of the Stage 2 DBPR (b)
Chloramines (with and without advanced tech.)	1,719	2,610,918
Chlorine Dioxide	9	37,335
UV	736	11,033,906
Ozone	19	1,545,741
MF/UF	0	1,821
GAC10	-	-
GAC10 + Adv. Disinfectants	18	14,914,955
GAC20	113	24,049,135
GAC20 + Adv. Disinfectants	34	4,366,613
NF	-	-
Membranes	17	17,680,345
TOTAL	**2,667**	**76,240,768**

Notes: Detail may not add due to independent rounding

To determine if the additional energy required for systems to comply with the rule would have a significant adverse effect on the use of energy, the numbers in Table VIII–3 are compared to the national production figures for electricity. According to the U.S. Department of Energy's Information Administration, electricity producers generated 3,800 million mWh of electricity in 2001 (USDOE EIA 2002). Therefore, even using the highest assumed energy use for the Stage 2 DBPR, the rule when fully implemented would result in only a 0.002 percent increase in annual average energy use.

In addition to average energy use, the impact at times of peak power demand is important. To examine whether increased energy usage might significantly affect the capacity margins of energy suppliers, their peak season generating capacity reserve was compared to an estimate of peak

incremental power demand by water utilities.

Both energy use and water use peak in the summer months, so the most significant effects on supply would be seen then. In the summer of 2001, U.S. generation capacity exceeded consumption by 15 percent, or approximately 120,000 mW (USDOE EIA 2002). Assuming around-the-clock operation of water treatment plants, the total energy requirement can be divided by 8,760 hours per year to obtain an average power demand of 8.3 mW. A more detailed derivation of this value is shown in Chapter 8 of the *Economic Analysis for the Stage 2 DBPR* (USEPA 2003i). Assuming that power demand is proportional to water flow through the plant and that peak flow can be as high as twice the average daily flow during the summer months, about 16.6 mW could be needed for treatment technologies installed to comply with the Stage 2 DBPR. This is only 0.014 percent of the capacity margin available at peak use.

Although EPA recognizes that not all areas have a 15 percent capacity margin and that this margin varies across regions and through time, this analysis reflects the effect of the rule on national energy supply, distribution, and use. While certain areas, notably California, have experienced shortfalls in generating capacity in the recent past, a peak incremental power requirement of 16.6 mW nationwide is not likely to significantly change the energy supply, distribution, or use in any given area. Considering this analysis, EPA has concluded that Stage 2 DBPR will not have any significant effect on the use of energy, based on annual average use and on conditions of peak power demand.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Pub. L. No. 104–113, 12(d) (15 U.S.C. 272 *note*) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking involves technical standards. EPA proposes to use American Society for Testing and Materials (ASTM) Method D 6581–00 for chlorite, bromide, and bromate compliance monitoring, which can be found in the Annual Book of ASTM Standards Volume 11.01. In the Stage 1 DBPR, EPA approved 13 methods from the Standard Methods Committee for measuring disinfectants, DBPs, and other parameters. Today's rule proposes to add the most recent versions of these 13 methods as approved methods. These consist of Standard Methods 4500–Cl D, 4500–Cl F, 4500–Cl G, 4500–Cl E, 4500–Cl I, 4500–Cl H, 4500–ClO_2 D, 4500–ClO_2 E, 6251 B, 5310 B, 5310 C, 5310 D, and 5910 B for chlorine, chlorine dioxide, HAA5, chlorite, TOC/DOC, and UV_{254}. These methods can be found in the 19th and 20th editions of *Standard Methods for the Examination of Water and Waste Water* (APHA 1995; APHA 1996; APHA 1998). Standard Methods 4500–Cl D, 4500–Cl F, 4500–Cl G, 4500–Cl E, 4500–Cl I, 4500–Cl H, 4500–ClO_2 E, 6251 B, 5310 B, 5310 C, 5310 D, and 5910 B for chlorine, chlorine dioxide, HAA5, chlorite, TOC/DOC, and UV_{254} are also available in the On-Line Version of *Standard Methods for the Examination of Water and Waste Water* (APHA 2003).

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations or Low Income Populations

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency missions by directing agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. The Agency has considered environmental justice related issues concerning the potential impacts of this action and consulted with minority and low-income stakeholders.

Two aspects of the Stage 2 DBPR comply with the order that requires the Agency to consider environmental justice issues in the rulemaking and to consult with stakeholders representing a variety of economic and ethnic backgrounds. These are: (1) The overall nature of the rule, and (2) the convening of a stakeholder meeting specifically to address environmental justice issues.

The Stage 1 DBPR has served as a template for the development of the Stage 2 DBPR. As such, the Agency built on the efforts conducted during the development of the Stage 1 DBPR to comply with Executive Order 12898. On March 12, 1998, the Agency held a stakeholder meeting to address various components of pending drinking water regulations and how they might impact sensitive subpopulations, minority populations, and low-income populations. This meeting was a continuation of stakeholder meetings that started in 1995 to obtain input on the Agency's Drinking Water Programs. Topics discussed included treatment techniques, costs and benefits, data quality, health effects, and the regulatory process. Participants were national, State, Tribal, municipal, and individual stakeholders. EPA conducted the meeting by video conference call between eleven cities. The major objectives for the March 12, 1998, meeting were the following:

- Solicit ideas from stakeholders on known issues concerning current drinking water regulatory efforts;
- Identify key areas of concern to stakeholders; and
- Receive suggestions from stakeholders concerning ways to increase representation of communities in OGWDW regulatory efforts.

In addition, EPA developed a plain-English guide for this meeting to assist stakeholders in understanding the multiple and sometimes complex issues surrounding drinking water regulations.

The Stage 2 DBPR and other drinking water regulations promulgated or under development are expected to have a positive effect on human health regardless of the social or economic status of a specific population. The Stage 2 DBPR serves to provide a similar level of drinking water protection to all groups. Where water systems have high DBP levels, they must reduce levels to meet the MCLs. Thus, the Stage 2 DBPR meets the intent of Federal policy requiring incorporation of environmental justice into Federal agency missions.

The Stage 2 DBPR applies uniformly to community water systems and nontransient noncommunity water systems that apply a chemical disinfectant or deliver water that has been chemically disinfected. Consequently, the health protection from DBP exposure that this rule provides is equal across all income and minority groups served by systems regulated by this rule.

K. Consultations with the Science Advisory Board, National Drinking Water Advisory Council, and the Secretary of Health and Human Services

In accordance with sections 1412 (d) and (e) of SDWA, the Agency has consulted with the Science Advisory Board (SAB), the National Drinking Water Advisory Council (NDWAC), and will consult with the Secretary of Health and Human Services regarding the proposed Stage 2 DBPR during the public comment period.

EPA met with the SAB to discuss the Stage 2 DBPR on June 13, 2001 (Washington, DC), September 25–26, 2001 (teleconference), and December 10–12, 2001 (Los Angeles, CA). Written comments from the December 2001 meeting of the SAB addressing the occurrence analysis and risk assessment were generally supportive. EPA met with the NDWAC on November 8, 2001, in Washington, DC to discuss the Stage 2 DBPR proposal. The Advisory Committee generally supported the need for the Stage 2 DBPR based on health and occurrence data, but also stressed the importance of providing flexibility to the systems implementing the rule. The results of these discussions are included in the docket for this rule.

L. Plain Language

Executive Order 12866 encourages Federal agencies to write rules in plain language. EPA invites comments on how to make this proposed rule easier to understand. For example: Has EPA organized the material to suit commenters' needs? Are the requirements in the rule clearly stated? Does the rule contain technical language or jargon that is not clear? Would a different format (grouping and ordering of sections, use of headings, paragraphs) make the rule easier to understand? Could EPA improve clarity by adding tables, lists, or diagrams? What else could EPA do to make the rule easier to understand?

IX. References

Acharya, S., K. Mehta, S. Rodrigues, J. Pereira, S. Krishman and C.V. Rao. 1995. Administration of Subtoxic Doses of T-butyl Alcohol and Trichloroacetic Acid to Male Wistar Rats to Study the Interactive Toxicity. Toxicol. Lett. 80: 97–104.

Acharya, S., K. Mehta, S. Rodrigues, J. Pereira, S. Krishman and C.V. Rao. 1997. A Histopathological Study of Liver and Kidney in Male Wistar Rats Treated with Subtoxic Doses of T-butyl Alcohol and Trichloroacetic Acid. Exp. Toxicol. Pathol. 49: 369–373.

American Cancer Society. 2002. Cancer Facts and Figures. *http://www.cancer.org/downloads/STT/CancerFacts&Figures2002TM.pdf.*

APHA 1995. Nineteenth Edition of Standard Methods for the Examination of Water and Wastewater, American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

APHA 1996. Supplement to the Nineteenth Edition of Standard Methods for the Examination of Water and Wastewater, American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

APHA 1998. Twentieth Edition of Standard Methods for the Examination of Water and Wastewater, American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

APHA 2003. On-Line Version of Standard Methods for the Examination of Water and Wastewater, American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

Aschengrau, A., Zierler S. and Cohen A. 1989. Quality of Community Drinking Water and the Occurrence of Spontaneous Abortions. Arch. Environ. Health. 44:283–90.

Aschengrau, A, Zierler S. and Cohen A. 1993. Quality of Community Drinking Water and the Occurrence of Late Adverse Pregnancy Outcomes. Arch. Environ. Health. 48:105–113.

ASTM 2002. Method D 6581–00. Annual Book of ASTM Standards. Vol. 11.01, American Society for Testing and Materials.

Balster, R.L., and J.F. Borzelleca, 1982. Behavioral Toxicology of Trihalomethane Contaminants of Drinking Water in Mice. Environmental Health Perspectives. 46, 127–136.

Baribeau, H., S.W. Krasner, R., Chin, R., and P.C. Singer. 2000. Impact of Biomass on the Stability of Haloacetic Acids and Trihalomethanes in a Simulated Distribution System. Proc. Of the Water Quality Technology Conference, Denver, CO. AWWA.

Bhat, H.K., M.F. Kanz, G.A. Campbell and G.A.S. Ansari. 1991. Ninety Day Toxicity Study of Chloroacetic Acids in Rats. Fundam. Appl. Toxicol. 17:240–253.

Bielmeier, S.R., D.S. Best, D.L. Guidici, and M.G. Narotsky. 2001. Pregnancy Loss in the Rat Caused by Bromodochloromethane. Toxicol Sci. Feb; 59(2):309–15.

Bolyard, M..G. and M.B. Stricklen. 1992. Expression of a modified Dutch elm disease toxin in Escherichia coli. Mol Plant Microb Interact 1992. 5(6):520–4.

Bove, F.J., M.C. Fulcomer, J.B. Koltz, J. Esmart, E.M. Dufficy, R.T. Zagraniski and J.E. Savrin. 1992. Report on Phase IV-B: Public Drinking Water Contamination and Birthweight and Selected and Birth Defects, a Case-Control Study. New Jersey Dept. of Health.

Bove, F.J. *et al.* 1995. Public Drinking Water Contamination and Birth Outcomes. Amer. J. Epidemiol., 141(9), 850–862.

Bove, F.J.; Shim, Y.; and Zeitz, P. 2002. Drinking Water Contaminants and Adverse Pregnancy Outcomes: A Review. Environmental Health Perspectives 110(Suppl. 1):61–74.

Bull, R.J.; I.M. Sanchez, M.A. Nelson, J.L. Larson and A.J. Lansing. 1990. Liver Tumor Induction is $B6C3F_1$ Mice by Dichloroacetate and Trichloracetate. Toxicology. 63: 341–359.

Cantor, K.P., C.F. Lunch, M. Hildesheim, M. Dosemeci, J. Lubin, M. Alavanja, G.F. Craun. 1998. Drinking Water Source and Chlorination Byproducts. I. Risk of Bladder Cancer. Epidemiology; 9(1):21–28.

Cantor KP, Lynch CF, Hildesheim ME, Dosemeci M, Lubin J, Alavanja M, Craun G., 1999. Drinking Water Source and Chlorination Byproducts in Iowa. III. Risk of Brain Cancer. Am J Epidemiol. 150(6):552–60.

Chang, L.W., F. B. Daniel and A. B. DeAngelo. 1991. Analysis of DNA Strand Breaks Induced in Rodent Liver in vivo, Hepatocytes in Primary Culture, and a Human Cell Line by Chloroacetic Acids and Chloroacetaldehydes. Environ. Molec. Mutagen, 20:277–288.

Chlorine Institute 1999. Bromate in Sodium Hypochlorite solutions.

Chlorine Institute 2000. Bromate in Sodium Hypochlorite.

Christian, M.S., R.G. York, A.M. Hoberman, R.M. Diener, and L.C. Fisher. 2001. Oral (Drinking Water) Developmental Toxicity Studies of Bromodichloromethane (BDCM) in Rats and Rabbits. International Journal of Toxicology 20(4):225–237.

Christian M.S., York R.G., Hoberman A.M., Frazee, L.C., Fisher L.C., Brown W.R., and D.M. Creasy. 2002a. Oral (drinking water) Two Generation Reproductive Toxicity Study of Dibromoacetic Acid (DBA) in Rats. International Journal of Toxicology 21(4) 237–76.

Christian M.S., York R.G., Hoberman A.M., Diener R.M., Fisher L.C. 2002b. Oral (drinking water) Two Generation Reproductive Toxicity Study of Bromodichloromethane (BDCM) in Rats. International Journal of Toxicology 21 (2):115–146.

Cosby, N. C. and W. R. Dukelow. 1992. Toxicology of Maternally Ingested Trichloroethylene (TCE) on Embryonal and Fetal Development in Mice and of TCE Metabolites on in vitro Fertilization. Fundam. Appl. Toxicol. 19(2): 268–74.

Day, J.A., Vonderheide, A.P., and Caruso, J.A. Second Laboratory Validation of U.S. EPA Method 321.8: Determination of Bromate in Drinking Waters by Ion Chromatography Inductively Coupled Plasma Mass Spectrometry. University of Cincinnati, January 2001.

D.C. Circuit 2000. *Chlorine Chemistry Council and Chemical Manufacturers Association* v. *EPA,* 206 F.3d 1286.

DeAngelo, A.B., F.B. Daniel, L. McMillan, P. Wernsing and R. E. Savage. 1989. Species and Strain Sensitivity to the Induction of Peroxisome Proliferation by Chloroacetic Acids. Toxicol. Appl. Pharmacol. 101:285–289.

DeAngelo, A.B., F.B. Daniel, B.M. Most and G.R. Olson. 1997. Failure of Monochloroacetic Acid and Trichloroacetic Acid Administered in the Drinking Water to Produce Liver Cancer in Male F344/N rats. J. of Toxicol. and Environ. Health. 52:425–445.

DeAngelo, A.B., M.H. George and D.E. House. 1999. Hepatocarcinogenicity in the Male

B6C3F1 Mouse Following a Lifetime Exposure to Dichloroacetic Acid in the Drinking Water: Dose-Response Determination and Modes of Action. J. Toxicol. Environ Health. 58(8):485–507.
DeAngelo, A.B., Geter D.R., Rosenberg D.W., Crary C.K., George M.H. 2002. The induction of aberrant crypt foci (ACF) in the colons of rats by trihalomethanes administered in the drinking water. Cancer Letters 187(1–2):25–31.
Dees, C. and C. Travis. 1994. Trichloroacetate Stimulation of Liver DNA Synthesis in Male and Female Mice. Toxicol. Lett. 70:343–355.
DeMarini, D.M., E. Perry and M.L. Sheldon. 1994. Dichloroacetic Acid and Related Compounds: Induction of Prophage in E. coli and Mutagenicity and Mutation Spectra in Salmonella TA 100. Mutagenesis. 9:429–437.
Dodds, L., W. King, C. Wolcott and J. Pole. 1999. Trihalomethanes in Public Water Supplies and Adverse Birth Outcomes. Epidemiology. 10:233–237.
Dodds, L. and W.D. King. 2001. Relation Between Trihalomethane Compounds and Birth Defects. Occup Environ Med., 58(7):443–46.
Doyle, Timothy J; Zheng, Wei; Cerhan, James R; Hong, Ching-Ping. 1997. The association of drinking water source and chlorination by-products with cancer incidence among postmenopausal women in Iowa: A prospective cohort study. American Journal of Public Health, 87(7):1168–1176.
Fair, P.S. Memo to the record. February 2002.
Fair, P.S., R.K. Sorrell, M. Stultz-Karapondo, *et al.*, 2002. Quality of Information Collection Rule Monitoring Data. In Information Collection Rule Data Analysis, M.J. McGuire, J. McLain, and A. Obolensky (eds), AwwaRF, Denver, CO.
Ferreira-Gonzalez, A., A.B. DeAngelo, S. Nasim and C.T. Garrett. 1995. Ras Oncogene Activation during Hepatocarcinogenesis in B6C3F1 Male Mice by Dichloroacetic and Trichloroacetic Acids. Carcinogenesis. 16(3):495–500.
Fort, D., E. Stover, J. Rayburn, M. Hull and J. Bantle. 1993. Evaluation of the Developmental Toxicity of Trichloroethylene and Detoxification Metabolites using Xenopus. Teratogenesis, Carcinogenesis, and Mutagenesis. 13:35–45.
Fu, L., E.M. Johnson and L.M. Newman. 1990. Prediction of the Developmental Toxicity Hazard Potential of Halogenated Drinking Water Disinfection By-products Tested by the *in vitro* Hydra Assay. Reg. Toxicol. and Pharmacol. 11:213–219.
Gallagher, M.D., J.R. Nuckols, L. Stallones and D.A. Savitz. 1998. Exposure to Trihalomethanes and Adverse Pregnancy Outcomes. Epidemiology. 9:484–489.
Gerba, C.P., J.B. Rose and C.N. Haas. 1996. Sensitive Populations: Who is at the Greatest Risk. Int. J. Food and Microbiology. 30:113–123.
Giller, S., F. Le Curieux, F. Erb and D. Marzin. 1997. Comparative Genotoxicity of Halogenated Acetic Acids Found in Drinking Water. Mutagenesis. 12(5):321–328.
Goldsworthy, T.L. and J.A. Popp. 1987. Chlorinated Hydrocarbon-Induced Peroxisomal Enzyme Activity in Relation to Species and Organ Carcinogenicity. Toxicol. Appl. Pharmacol. 88:225–233.
Harrington-Brock, K. C.L. Doerr and M.M. Moore. 1998. Mutagenicity of Three disinfection by-products; di- and trichloroacetic acid and chloral hydrate in L5178Y/TK+/−3.7.2C mouse lymphoma cells. Mutation Research. 413:265–276.
Hautman, D.P., Munch, D.J., Frebis, C.P., Wagner, H.P., and Pepich, B.V. 2001. Review of the Methods of the U.S. Environmental Protection Agency for Bromate Determination and Validation of Method 317.0 for Disinfection By-Product Anions and Low-Level Bromate. Journal of Chromatography A, 920 (2001) 221–229.
Heywood, R., R.J. Sortwell, P.R.B. Noel, A.E. Street, D.E. Prentice, F.J.C. Roe, P.F. Wadsworth, A.N. Worden, N.J. Van Abbe. 1979. Safety Evaluation of Toothpaste Containing Chloroform. III. Long-term Study in Beagle Dogs. J. Environ. Pathol. Toxicol. 2:835–851.
Hildesheim, M.E., K.P. Cantor, C.F. Lynch, M. Dosemeci, J. Lubin, M. Alavanja, and G.F. Craun. 1998. Drinking Water Source and Chlorination Byproducts: Risk of Colon and Rectal Cancers. Epidemiology. 9(1):29–35.
Hooper and Allgeier, 2002. Information Collection Rule Treatment Studies. AwwaRF.
Hrubek Z. and J.K. McLaughlin. 1997. ''Former cigarette smoking and mortality among U.S. veterans: a 26-year follow-up.'' In: Changes in cigarette related disease risks and their implication for prevention and control. D.M. Burns, L. Garfinkel, J.M. Samet (eds.). NIH Monograph No. 8, National Institutes of Health. Washington, DC: National Cancer Institute, pp.501–530.
Hunter, III, E.S., E.H. Rogers, J.E. Schmid and A. Richard. 1996. Comparative Effects of Haloacetic Acids in Whole Embryo Culture. Teratology. 54:57–64.
Hwang, B., P. Magnus, and J.K. Jaakkola, 2002. Risk of Specific Birth Defects in Relation to Chlorination and the Amount of Natural Organic Matter in the Water Supply. Am J Epidemiol 2002; 156:374–382.
ILSI 1998. International Life Sciences Institute. Exposure to Contaminants in Drinking Water Estimating Uptake through the Skin and by Inhalation.
Infante-Rivard, C., E. Olson, L. Jacques and P. Ayotte. 2001. Drinking Water Contaminants and Childhood Leukemia. Epidemiology 12(1):13–19.
IRIS 1991. Integrated Risk Information System (IRIS). N-nitrosodimethylamine (NDMA). Washington, DC: U. S. Environmental Protection Agency. *http://www.epa.gov/iris/subst/0045.htm*
IRIS 2001. Integrated Risk Information System (IRIS). Chloroform. Washington, DC: U. S. Environmental Protection Agency. *http://www.epa.gov/iris/subst/0025.htm*
Jaakkola JJK, Magnus P, Skrondal A, Hwang B–F, Becher G, Dybing E. 2001. Foetal growth and duration of gestation relative to water chlorination. Occup Environ Med 58:437–442.
Ji, Y., C. Qin-Yao, W. Xiao-fei, L. Yi and L. Hong-mei. 1998. Prescreening Teratogenic Potential of Chlorinated Drinking Water Disinfection By-products by using *Hydra* Regeneration Assay. J. of Environ. Sciences. 10(1):110–112.
Johnson, P.D., B.V. Dawson, and S.J. Goldberg. 1998. Cardiac Teratogenicity of Trichloroethylene Metabolites. J. American College of Cardiology. 32(2):540–545.
Källén, B.A.J .and E. Robert. 2000. Drinking water Chlorination and Delivery Outcome—a Registry Based Study in Sweden. Reprod. Toxicol. 14:303–309.
Kanitz S, Franco Y, Patrone V, Caltabellotta M, Raffo E, Riggi C, Timitilli D, Ravera G. 1996, Association between drinking water disinfection and somatic parameters at birth. Environ Health Perspect 104(5):516–520.
Kim, H. and C. P. Weisel. 1998. Dermal Absorption of Dichloro- and Trichloroacetic Acids from Chlorinated Water. J. of Exposure Anal. and Environ. Epidem. 8(4):555–575.
King, W., L. Dodds and A. Allen. 2000a. Relation between Stillbirth and Specific Chlorination By-products in Public Water Supplies. Environ. Health Perspect.108:883–886.
King, W.D., L.D. Marrett and C.G. Woolcott. 2000b. Case-Control Study of Colon and Rectal Cancers and Chlorination By-products in Treated Water. Cancer Epidemiology, Biomarkers & Prevention 9:813–818.
Klinefelter, G.R., Hunter, E.S., and Narotsky, M. 2001. Reproductive and Developmental Toxicity Associated with Disinfection By-Products of Drinking Water, In: Microbial Pathogens and Disinfection By-Products of Drinking Water, ILSI Press, 309–323.
Klotz J.B. and L.A. Pyrch, 1998. A Case Control Study of Neural Tube Defects and Drinking Water Contaminants. U.S. Department of Health and Human Services, Agency for Toxic Substances and Disease Registry (ATSDR).
Klotz, J.B. and L.A. Pyrch, 1999. Neural Tube Defects and Drinking Water Disinfection Byproducts. Epidemiology 10:383–390.
Koivusalo M, T. Hakulinen, T. Vartiainen, *et al.*, 1998. Drinking Water Mutagenicity and Urinary Tract Cancers: a Population-Based Case-Control Study in Finland. American Journal of Epidemiology 148(7):704–12.
Kramer M.D., C.F. Lynch, P. Isacson, J.W. Hanson, 1992. The Association of Waterborne Chloroform with Intrauterine Growth Retardation. Epidemiology 3:407–413.
Krasner, S.W., Sclimenti, M.J., and Hwang, C.J. 1989. Experiences with Implementing a Laboratory Program to Sample and Analyze for Disinfection By-Products in a National Study. In *Disinfection By-Products: Current Perspectives,* AWWA, Denver, CO.
Latendresse, J.R. and M.A. Pereira. 1997. Dissimilar Characteristics of N-methyl-N-nitrosourea-initiated Foci and Tumors Promoted by Dichloroacetic Acid or Trichloroacetic Acid in the Liver of Female B6C3F1 Mice. Toxicol. Pathol. 25(5): 433–440.
Linder, R.E., G.R. Klinefelter, L.F. Strader, J.D. Suarez, and C.J. Dyer. 1994a. Acute Spermatogenic Effects of Bromoacetic

Acids. Fundamental and Applied Toxicology. 22: 422–430.
Linder, R.E., G.R. Klinefelter, L.F. Strader, J.D. Suarez, N.L. Roberts, and C.J. Dyer. 1994b. Spermatotoxicity of Dibromoacetic Acid in Rats after 14 Daily Exposures. Reproductive Toxicology. 8(3): 251–259.
Linder, R.E., G.R. Klinefelter, L.F. Strader, M.G. Narotsky, J.D. Suarez, N.L. Roberts and S.D. Perreault. 1995. Dibromoacetic Acid Affects Reproductive Competence and Sperm Quality in the Male Rat. Fundamental and Applied Toxicology. 28: 9–17.
Linder, R.E., G.R. Klinefelter, L.F. Strader, J.D. Suarez, and N.L. Roberts. 1997a. Spermatotoxicity of Dichloroacetic Acid. Reproductive Toxicology. 11(5): 681–688.
Linder, R.E., G.R. Klinefelter, L.F. Strader, D.N. Veeramachaneni, N.L. Roberts and J.D. Suarez, 1997b. Histopathologic Changes in the Testes of Rats Exposed to Dibromoacetic Acid. Reprod. Toxicol. 11(1), 47–56.
Mackay, J.M., V. Fox, K. Griffiths, D.A. Fox, C.A. Howard, C. Coutts, I. Wyatt and J.A. Styles. 1995. Trichloroacetic Acid: Investigation into the Mechanism of Chromosomal Damage in the *in vitro* Human Lymphocyte Cytogenetic Assay and the Mouse Bone Marrow Micronucleus Test. Carcinogenesis. 16(5): 1127–1133.
Magat, W.A., W.K. Viscusi, and J. Huber. 1996. ''A Reference Lottery Metric for Valuing Health.'' Management Science 42:1118–1130.
Magnus, P., J.J.K. Jaakkola, A. Skrondal, J. Alexander, G. Becher, T. Krogh and E. Dybing. 1999. Water Chlorination and Birth Defects. Epidemiology. 10:513–517.
Malley, J., J. Show, and J. Ropp. 1996. Evaluation of the by-products produced by the treatment of groundwaters with ultraviolet radiation. American Water Works Association Research Foundation, Denver, CO.
Mather, G.G, J.H. Exon and L.D. Koller. 1990. Subchronic 90-day Toxicity of Dichloroacetic and Trichloroacetic Acid in Rats. Toxicology 64: 71–80.
Murray, F.J., B.A. Schwetz, J.G. McBride, and R.E. Staples, 1979. Toxicity of Inhaled Chloroform in Pregnant Mice and Their Offspring. Toxicol. Appl. Pharmacol. 50(3), 515–522.
Narotsky, M.G., and R.J. Kavlock. 1992. Effects of Bromoform and Bromodichloromethane in an in vivo Developmental Toxicity Screen. EPA report to Office of Water.
Narotsky, M.G., B.T. Hamby, and D.S. Best, 1997a. Developmental Effects of Dibromoacetic Acid (DBA) in a Segment II Study in Mice. Teratology 55 (1), 67.
Narotsky, M.G., R.A. Pegram, and R.J. Kavlock. 1997b. Effect of dosing Vehicle on the Developmental Toxicity of Bromodichlomethane and Carbon Tetrachloride in Rats. Fundamental and Applied Tox. 40:30–36.
NATICH 1993. National Air Toxics Information Clearinghouse. Acceptable ambient concentration guidelines or standards by pollutants: Trichloroacetic acid. Washington, DC: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards. April 22, 1993.
Nelson, M.A. and R. J. Bull. 1988. Induction of Strand Breaks in DNA by Trichloroethylene and Metabolites in Rat and Mouse livers in vivo. Toxicol. Appl. Pharmacol. 94:45–54.
Nieuwenhuijsen, M.J., M.B. Toledano, N.E. Eaton, J. Fawell and P. Elliott. 2000. Chlorination Disinfection By-products in Water and Their Association with Adverse Reproductive Outcomes: A Review. Occup. Environ. Med., 57(2):73–85.
NOAA 1998. Palmer Drought Severity Index Maps *http://www.cpc.noaa.gov/products/monitoring_and_data/drought.html.*
NTP 1987. National Toxicology Program. Toxicity and carcinogenesis studies of bromodichloromethane (CAS No. 75–27–4) in F344/N rats and B6C3F1 mice (gavage studies). Technical Report Series No. 321. Research Triangle Park, NC: U.S. Department of Health and Human Services.
NTP 1989. Toxicology and carcinogenesis studies of tribromomethane (bromoform) in F344/N rats and B6C3F1 mice (gavage studies). Technical Report Series No. 350. Research Triangle Park, NC: U.S. Department of Health and Human Services.
NTP 1992. NTP technical Report on the Toxicology and Carcinogenesis Studies of Monochloroacetic Acid (CAS No. 79–11–8) in F344/N rats and B6C3F1 Mice (Gavage Studies). NTP TR 396. NTIS Publication No. PB92–189372.
OSTP 1985. Chemical Carcinogens; A Review of the Science and Its Associated Principles, February 1985. Presented in Risk Analysis: A guide to Principles and Methods for Analyzing Health and Environmental Risks. Appendix G. Fed. Reg., Pages 10371–10442. (March 14, 1985).
Overbeck, P.K. 2000. WQA Ozone Task Force—An Update. Water Conditioning and Purification. 42(3) 76–78.
Parrish, J.M., E.W. Austin, D.K. Stevens, D.H. Kinder and R.J. Bull. 1996. Haloacetate-Induced Oxidative Damage to DNA in the Liver of Male B6C3F1 Mice. Toxicology. 110:103–111.
Pawlecki-Vonderheide, A.M., Munch, D.J., and Munch, J.W. 1997. Research Associated with the Development of EPA Method 552.2. J. of Chromatographic Science. 35:293–301.
Pereira, M. A. 1996. Carcinogenic Activity of Dichloroacetic Acid and Trichloroacetic Acid in the Liver of Female B6C3F1 Mice. Fundam. Appl. Toxicol. 31:192–199.
Pereira, M.A. and J.B. Phelps. 1996. Promotion by Dichloroacetic Acid and Trichloroacetic Acid of N-methyl-N-nitrosourea-initiated cancer in the Liver of Female B6C3F1 Mice. Cancer Lett. 102:133–141.
Personal communication from M. Kogevinas to M. Messner, 5/19/2003.
Raymer, J.H., Pellizzari, E.D., Hu, Y. *et al.* (2001). Assessment of Human Dietary Ingestion Exposures to Water Disinfection Byproducts via Food. Star Drinking Water Progress Review Meeting, February 22–23, 2001, Silver Spring, MD.
Reif, J.S., A. Bachand and M. Andersen. 2000. Reproductive and Developmental Effects of Disinfection By-Products. Bureau of Reproductive and Child Health, Health Canada, Ottawa, Ontario, Canada. Executive summary available at *http://www.hc-sc.gc.ca/pphb-dgspsp/publicat/reif/index.html.*
Reimann, S., K. Grob and H. Frank. 1996. Environmental chloroacetic acids in foods analyzed by GC–ECD. Mitteilungen Aus Dem Gebiete der Lebensmitteluntersuchung und Hygiene. 87 (2):212–222.
Rice, 2000—personal communication: e-mail 7/14/2000.
Ruddick, J.A., D.C. Villeneuve, and I. Chu, 1983. A Teratological Assessment of Four Trihalomethanes in the Rat. J. Environ. Sci. Health B18(3), 333–349.
Saillenfait, A. M., I. Langonne and J. P. Sabate. 1995. Developmental Toxicity of Trichloroethylene, Tetrachloroethylene and Four of Their Metabolites in Rat Whole Embryo Culture. Arch. Toxicol. 70:71–82.
Salhi, E. and von Gunten, U. 1999. Simultaneous Determination of Bromide, Bromate and Nitrite in Low $\mu g\ l^{-1}$ Levels by Ion Chromatography without Sample Pretreatment. Water Research. 33 (15):3239–3244.
Sanchez, I. M. and R. J. Bull. 1990. Early Induction of Reparative Hyperplasia in $B6C3F_1$ Mice Treated with Dichloroacetate and Trichloroacetate. Toxicology. 64:33–46.
Savitz, D. A., K.W. Andrews and L. M. Pastore. 1995. Drinking Water and Pregnancy Outcome in Central North Carolina: Source, Amount, and Trihalomethane levels. Environ. Health Perspectives. 103(6), 592–596.
Schwetz, B.A., K.J. Leong, and P.J. Gehring, 1974. Embryo- and Fetotoxicity of Inhaled Chloroform in Rats. Toxicol. Appl. Pharmacol. 28(3), 442–451.
Seidel, C. 2001. BAT Memorandum on SWAT Runs for Stage 2 BAT Evaluation. (June 25, 2001).
Simmons, J.E.; S Richardson, T. Speth, R. Miltner, G. Rice, K. Schenck, E.S. Hunter III, and L. Teuschler. 2002. Development of a Research Strategy for Integrated Technology-Based Toxicological and Chemical Evaluation of Complex Mixtures of Drinking Water Disinfection Byproducts. Environmental Health Perspectives Vol. 110 Supplement 6, 1013–1024.
Smith, M.K., J.L. Randall, and J.A. Stober. 1988. Developmental effects of trichloroacetic acid in Long-Evans rats. Teratology 37(5), 495.
Smith, M.K., J.L. Randall, E.J. Read and J.A. Stober. 1989. Teratogenic Effects of Trichloroacetic Acid in the Rat. Teratology. 40: 445–451.
Smith, M.K., J.L. Randall, E.J. Read, and J.A. Stober. 1990. Developmental effects of Chloroacetic acid in the Long-Evans Rat. Teratology 41 (5), 593 (Abstract No. P164).
Smith, V.K., G. Van Houtven and S.K. Pattanayak. 2002. Benefit transfer via preference calibration: 'Prudential algebra' for policy. *Land Economics*, 78(1):132–152.
Stauber, A.J. and R.J. Bull. 1997. Differences in Phenotype and Cell Replicative Behavior of Hepatic Tumors Induced by Dichloroacetate (DCA) and Trichloroacetate (TCA). Toxicol. Appl. Pharmacol. 144(2): 235–46.

Tao, L., K. Li, P.M. Kramer and M.A.Perei.1996.Loss of Heterozygosity on Chromosome 6 in Dichloroacetic Acid and Trichloroacetic Acid-Induced Liver Tumors in Female B6C3F$_1$ Mice. Cancer Lett. 108: 257–261.

Tao, L., P.M. Kramer, R. Ge and M.A. Pereira. 1998. Effect of Dichloroacetic Acid and Trichloroacetic Acid on DNA Methylation in Liver and Tumors of Female B6C3F$_1$ Mice. Toxicol. Sciences. 43: 139–144.

Thompson, D.L., S.D. Warner, and V.B. Robinson, 1974. Teratology Studies in Orally Administered Chloroform in the Rat and Rabbit. Toxicol. Appl. Pharmacol. 29, 348–357.

Toth, G.P., K.C. Kelty, E.L. George, E.J. Read, and M.K. Smith, 1992. Adverse Male Reproductive Effects Following Subchronic Exposure of Rats to Sodium Dichloroacetate. Fund. Appl. Toxicol. 19, 57–63.

Tyl, R.W. 2000. Review of Animal Studies for Reproductive and Developmental Toxicity Assessment of Drinking Water Contaminants: Disinfection By-Products (DBPs). RTI Project No. 07639. Research Triangle Institute.

USDOE Energy Information Administration 2002. Table 7.1 Electricity Overview (Billion Kilowatthours). *http://www.eia.doe.gov/emeu/mer/txt/mer7–1*

USEPA 1979. National Interim Primary Drinking Water Regulations; Control of Trihalomethanes in Drinking Water. FR 44:231:68624. (November 29, 1979).

USEPA 1985. National Primary Drinking Water Regulations; Volatile Synthetic Organic Chemicals; Final Rule and Proposed Rule. FR 50:219:46880 (September 13, 1985).

USEPA 1986. Guidelines for Carcinogen Risk Assessment, FR 51:185:33992–34003. EPA/600/8–87/045. NTIS PB88–123997. *http://www.epa.gov/ncea/raf/rafguid.htm*

USEPA 1989a. National Primary Drinking Water Regulations; Filtration, Disinfection, Turbidity, Giardia lamblia, Viruses, Legionella, and Heterotrophic Bacteria; Final Rule. Part II. FR 54:124: 27486. (June 29, 1989).

USEPA 1989b. National Primary Drinking Water Regulations; Total Coliforms (Including Fecal Coliform and E. coli); Final Rule. FR 54:124: 27544. (June 29, 1989).

USEPA 1989c. Review of Environmental Contaminants and Toxicology. U.S. EPA. Office of Drinking Water Health Advisories. Volume 106. 225 pp.

USEPA 1991a. National Primary Drinking Water Regulations; Synthetic Organic Chemicals and Inorganic Chemicals; Monitoring for Unregulated Contaminants; National Primary Drinking Water Regulations Implementation; National Secondary Drinking Water Regulations. Final rule, January 31, 1991. FR 56:20: 3526.

USEPA 1991b. Guidelines for Developmental Toxicity Risk Assessment. FR 56:234:63798–63826.

USEPA 1992. EPA Method 552.1. In Methods for the Determination of Organic Compounds in Drinking Water—Supplement II. EPA 600/R–92/129. NTIS, PB92–207703.

USEPA 1993. EPA Method 300.0. In Methods for the Determination of Inorganic Substances in Environmental Samples. EPA/600/R/93/100.

USEPA 1994a. Draft Drinking Water Health Criteria Document for Chlorinated Acetic Acids/Alcohols/Aldehydes and Ketones. Office of Science and Technology, Office of Water.

USEPA 1994b. National Primary Drinking Water Regulations; Disinfectants and Disinfection Byproducts; Proposed Rule. FR 59:145:38668–38829. (July 29, 1994).

USEPA 1995. EPA Method 552.2. In Methods for the Determination of Organic Compounds in Drinking Water. Supplement III. EPA–600/R–95/131. NTIS, PB95261616.

USEPA 1996a. National Primary Drinking Water Regulation: Monitoring Requirements for Public Drinking Water Supplies: Cryptosporidium, Giardia, Viruses, Disinfection Byproducts, Water Treatment Plant Data and Other Information Requirements. Final Rule. FR 61:94:24354–24388. (May 14, 1996).

USEPA 1996b. DBP/ICR Analytical Methods Manual. EPA 814–B–96–002. NTIS, PB96–157516.

USEPA 1997a. National Primary Drinking Water Regulations; Disinfectants and Disinfection Byproducts; Notice of Data Availability; Proposed Rule. FR 62:212:59388–59484. (November 3, 1997).

USEPA 1997b. Manual for the Certification of Laboratories Analyzing Drinking Water. EPA 815–B–97–001. *http://www.epa.gov/OGWDW/certlab/labindex.html*

USEPA 1998a. Quantification of Bladder Cancer Risk from Exposure to Chlorinated Surface Water. Office of Science and Technology, Office of Water. November 9, 1998.

USEPA 1998b. Health Risk Assessment/Characterization of the Drinking Water Disinfection Byproduct Chloroform. Office of Science and Technology, Office of Water. EPA 815–B–98–006. PB 99–111346.

USEPA 1998c. National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts; Final Rule. FR 63:241:69390–69476. (December 16, 1998). *http://www.epa.gov/safewater/mdbp/dbpfr.pdf*

USEPA 1998d. National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment Rule; Final Rule. FR 63:241:38832–38858. (December 16, 1998). *http://www.epa.gov/safewater/mdbp/ieswtrfr.pdf*

USEPA 1998e. National Primary Drinking Water Regulations; Disinfectants and Disinfection Byproducts; Notice of Data Availability; Proposed Rule. FR 63:61:15606–15692. (March 31, 1998).

USEPA 1998f. Regulatory Impact Analysis of Final Disinfectant/Disinfection By-Products Regulations. Washington, DC. EPA Number 815–B–98–002. PB 99–111304.

USEPA 1998g. National-Level Affordability Criteria Under the 1996 Ammendments to the Safe Drinking Water Act (Final Draft Report). Contact 68–C6–0039. (August 19, 1998).

USEPA 1998h. Variance Technology Findings for Contaminants Regulated Before 1996. Office of Water. EPA 815–R–98–003.

USEPA 1998i. National Primary Drinking Water Regulations: Consumer Confidence Reports; Final Rule. FR 63:160:44512–44536.

USEPA 1998j. Revisions to State Primacy Requirements to Implement Safe Drinking Water Act Amendments; Final Rule. FR 63:81:23362–23368.

USEPA 1999a. Guidelines for carcinogen risk assessment. July SAB Review draft. Office of Research and Development, Washington, DC. USEPA NCEA–F–0644. *http://www.epa.gov/ncea/raf/crasab.htm*

USEPA 1999b. National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements; Final Rule. FR 64:230:67449. (December 1, 1999).

USEPA 1999c. Chloroform Mode of Action Analysis. Prepared for the Science Advisory Board by Office of Science and Technology, Office of Water. October 1999. *http://www.epa.gov/sab/chloro00.htm*

USEPA 1999d. Cost of Illness Handbook. Office of Pollution Prevention and Toxics. Chapter 1 II.8. Cost of Bladder Cancer. September, 1999. *http://www.epa.gov/oppt/coi*

USEPA 2000a. Estimated per Capita Water Ingestion in the United States. EPA–82200–008. *http://www.epa.gov/waterscience/drinking/percapita/*

USEPA 2000b. Guidelines for Preparing Economic Analyses. Washington, DC. EPA 240R–00–003, September 2000.

USEPA 2000c. *Information Collection Rule Auxiliary 1 Database,* Version 5, EPA 815–C–00–002, April 2000.

USEPA 2000d. EPA Method 321.8. In Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1. ORD–NERL, Cincinnati, OH. EPA 815–R–00–014. Available on ORD–NERL Web site at *http://www.epa.gov/nerlcwww/ordmeth.htm.*

USEPA 2000e. Removal of the Maximum Contaminant Level Goal for Chloroform From the National Primary Drinking Water Regulations. FR 65:104:34404–34405. (May 30, 2000). *http://www.epa.gov/safewater/regs/chlorfr.html*

USEPA 2000f. Review of the EPA's Draft Chloroform Risk Assessment by a Subcommittee of the Science Advisory Board. Science Advisory Board, Washington, DC. EPA–SAB–EC–00–009.

USEPA 2000g. Stage 2 Microbial and Disinfection Byproducts Federal Advisory Committee Agreement in Principle. FR 65:251:83015–83024. (December 29, 2000). *http://www.epa.gov/fedrgstr/EPA–WATER/2000/December/Day-29/w33306.htm*

USEPA 2000h. National Primary Drinking Water Regulations: Ground Water Rule. Proposed Rules. FR 65:91:30194–30274. (May 10, 2000).

USEPA 2000i. Quantitative Cancer Assessment for MX and Chlorohydroxyfuranones. Contract NO. 68–C–98–195. August 11, 2000, Office of Water, Office of Science and Technology, Health and Ecological Criteria Division, Washington, DC.

USEPA 2000j. Drinking Water Baseline Handbook, Second Edition. Prepared by International Consultants, Inc. under contract with EPA OGWDW, Standards and Risk Management Division. March 17, 2000.

USEPA 2000k. Geometries and Characteristics of Public Water Systems. Final Report. EPA 815–R–00–024. December 2000.

USEPA 20001. EPA Method 300.1. In Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1. OW–OGWDW–TSC, Cincinnati, OH. EPA 815–R–00–014. Available on the OGWDW Web site at *http://www.epa.gov/safewater/methods/sourcalt.html.*

USEPA 2000m. Information Collection Rule Treatment Study Database CD–ROM, Version 1.0.

USEPA 2000n. Science Advisory Board Final Report. Prepared for Environmental Economics Advisory Committee. July 27, 2000. EPA–SAB–EEAC–00–013.

USEPA 2000o. Draft Dioxin Reassessment. EPA/600/P–00/001B *http://cfpub.epa.gov/ncea/cfm/part1and2.cfm?ActType=default.*

USEPA 2001a. Relative Source Contribution for Chloroform. EPA–822-R–01–006.

USEPA 2001b. Toxicological Review of Chloroform. In support of Integrated Risk Information System (IRIS). Washington, DC. Draft. EPA/635/R–01/001.

USEPA 2001c. National Primary Drinking Water Regulations: Filter Backwash Recycling Rule. Final Rule. FR 66:111:31086–31105. (June 8, 2001).

USEPA 2001d. Method 317.0, Revision 2.0. Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis. Revision 2.0. EPA 815–B–01–001. (Available on the OGWDW Web site at *http://www.epa.gov/safewater/methods/sourcalt.html.)*

USEPA 2001e. Arsenic Rule Benefits Analysis: an SAB Review. August 30, 2001. EPA–SAB–EC–01–008.

USEPA 2002a. Method 326.0. Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis. Revision 1.0. EPA 815–R–03–007. (Available on the OGWDW Web site at *http://www.epa.gov/safewater/methods/sourcalt.html.)*

USEPA 2002b. Long Term 1 Enhanced Surface Water Treatment Rule. January 14, 2002. 67 FR 1812.

USEPA 2002c. Affordability Criteria for Small Drinking Water Systems: an EPA Science Advisory Board Report. December 2002. EPA–SAB–EEAC–03–004.

USEPA 2003a. Health Risks to Fetuses, Infants, and Children: A Review. Office of Water, Office of Science and Technology, Health and Ecological Criteria Division.

USEPA 2003b. Addendum to the Criteria Document for Monochloroacetic Acid and Trichleoeacetic Acid: External Review Draft.

USEPA 2003c. Addendum to the Criteria Document for Dichloroacetic Acid: External Review Draft.

USEPA 2003d. Drinking Water Criteria Document for Brominated Trihalomethanes: External Review Draft.

USEPA 2003e. Drinking Water Criteria Document for Brominated Haloacetic Acids: External Review Draft.

USEPA 2003f. Drinking Water Criteria Document for Cyanogen Chloride, External Review Draft.

USEPA 2003g. Drinking Water Criteria Document for Glyoxal and Methylglyoxal: External Review Draft.

USEPA 2003h. Drinking Water Criteria Document for Haloacetonitriles: External Review Draft.

USEPA 2003i. Economic Analysis for the Proposed Stage 2 DBPR. Washington, DC. EPA 815–D–03–001.

USEPA 2003j. Draft Initial Distribution System Evaluation Guidance Manual. Washington, DC. EPA 815–D–03–002.

USEPA 2003k. Technologies and Costs for Control of Microbial Pathogens and Disinfection Byproducts. Prepared by the Cadmus Group and Malcolm Pirnie.

USEPA 2003l. Toxicologcal Review for Dichloroacetic Acid: Consensus Review Draft. *http://www.epa.gov/iris/subst/0654.htm*

USEPA 2003m. Information Collection Request. Washington, DC. EPA 815–D–03–003.

USEPA 2003n. Draft Significant Excursion Guidance Manual. Washington, DC. EPA 815–D–03–004.

USEPA 2003o. Stage 2 Occurrence Assessment for Disinfectants and Disinfection Byproducts (D/DBPs). EPA 68–C–99–206.

USEPA 2003p. Method 552.3. Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-liquid Extraction, Derivatization, and Gas Chromatography with Electron Capture Detection. Revision 1.0. (Available on the OGWDW Web site at *http://www.epa.gov/safewater/methods/sourcalt.html.)*

USEPA 2003q. Method 327.0. Determination of Chlorine Dioxide and Chlorite Ion in Drinking water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry. Revision 1.0. (Available on the OGWDW Web site at *http://www.epa.gov/safewater/methods/sourcalt.html.)*

USEPA 2003r. Method 415.3. Determination of Total Organic Carbon, and Specific UV Absorbance at 254 nm in Source Water and Drinking Water. Revision 1.0. NERL, Cincinnati, OH 45268.

USEPA 2003s. Arsenic in Drinking Water: Cessation Lag Model. Prepared by Sciences International. Contract No. 68–c–98–195. January, 2003.

Veeramachaneni, D.N.R., T.T. Higuchi, J.S. Palmer, and C.M. Kane. 2000. Dibromoacetic Acid, a Disinfection By-product in Drinking Water, Impairs Sexual Function and Fertility in Male Rabbits. Paper presented at the annual meeting for the Society for the Study of Reproduction, Madison, Wisconsin.

Vena, JE, Graham, S, Freudenheim, J, Marshall, J, Zielezny, M, Swanson, M, Sufrin, G. 1993. Drinking water, fluid intake, and bladder cancer in western New York. Archives of Environmental Health, 48(3):191–8.

Ventura, S.J., W.D. Mosher, S.C. Curtin, J.C. Abma, and S. Henshaw. 2000. ''Trends in Pregnancies and Pregnancy Rates by Outcome: Estimates for the United States, 1976–96.'' National Center for Health Statistics. Vital Health Stat 21(56).

Villanueva, C.M., F. Fernandez, N. Malats, J.O. Grimalt, M. Kogevinas. 2003. Meta-analysis of Studies on Individual Consumption of Chlorinated Drinking Water and Bladder Cancer. J Epidemiol Community Health, 57:166–173.

Wagner, H.P., Pepich, B.V., Frebis, C., Hautman, D.P., Munch, D.J., and Jackson, P.E. 2001. A Collaborative Study of EPA Method 317.0 for the Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis. Journal of Chromatographic Science. Vol 39 (255–259), June 2001.

Wagner, H.P., Pepich, B.V., Frebis, C., Hautman, D.P. and Munch, D.J. 2002. U.S. Environmental Protection Agency Method 326.0, a new method for monitoring inorganic oxyhalides and optimization of the postcolumn derivatization for the selective determination of trace levels of bromate. Journal of Chromatography. A. Vol. 956 (93–101), May 2002.

Wallace, L.A. 1997. Human exposure and Body Burden for Chloroform and Other Trihalomethanes., Crit. Rev. Environ. Sci. Technol. 27:113–94.

Waller, K., S.H. Swan, G. DeLorenze, B. Hopkins. 1998. Trihalomethanes in Drinking Water and Spontaneous Abortion. Epidemiology. 9(2):134–140.

Waller, K., S.H. Swan, G.C. Windham, L. Fenster. 2001. Influence of Exposure Assessment Methods on Risk Estimates in an Epidemiologic Study of Total Trihalomethane Exposure and Spontaneous Abortion. Journal of Exposure Analysis and Environmental Epidemiology. 11(6): 522–531.

Weisel, C.P. and W.K. Jo. 1996. Ingestion, Inhalation, and Dermal Exposures to Chloroform and Trichloroethene from Tap Water. Environmental Health Perspectives. 104 (1): 48–51.

WHO 2000. World Health Organization, International Programme on Chemical Safety (IPCS). Environmental Health Criteria 216: Disinfectants and Disinfectant By-products.

Williams, S.L., Rindfleisch, D.F., and Williams, RL. 1995. Deadend on Haloacetic Acids (HAA). In Proceedings of the 1994 AWWA Water Quality Technology Conference, November 1994.

Windham GC, Waller K, Anderson M, Fenster L, Mendola P, Swan S. 2003. Chlorination by-Products in Drinking Water and Menstrual Cycle Function. Environ Health Perspect: doi:10.1289/ehp.5922. *http://ehpnet1.niehs.nih.gov/docs/2003/5922/abstract.html*

Yang, C.Y., H.F. Chiu, M.F. Cheng, *et al.* 1998. Chlorination of Drinking Water and Cancer Mortality in Taiwan. Environmental Research 78(1):1–6.

Yang, V., B. Cheng, S. Tsai, T. Wu, M. Lin M. and K. Lin. 2000. Association between Chlorination of Drinking Water and Adverse Pregnancy Outcome in Taiwan. Environ. Health. Perspect. 108:765–68.
Zheng, M., S. Andrews, and J. Bolton. 1999. Impacts of medium-pressure UV on THM and HAA formation in pre-UV chlorinated drinking water. Proceedings, Water Quality Technology Conference of the American Water Works Association, Denver, CO.

List of Subjects

40 CFR Part 141

Chemicals, Indians-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 142

Administrative practice and procedure, Chemicals, Indians-lands, Radiation protection, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 143

Chemicals, Indians-lands, Water supply.

Dated: July 11, 2003.

Linda J. Fisher,

Acting Administrator.

For the reasons set forth in the preamble, title 40 chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.2 is amended by adding, in alphabetical order, definitions for ''Combined distribution system'', ''Consecutive system'', ''Consecutive system entry point'', ''Dual sample sets'', ''Finished water'', ''Locational running annual average'', and ''Wholesale system'' to read as follows:

§ 141.2 Definitions.

* * * * *

Combined distribution system is the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water from those wholesale system(s).

* * * * *

Consecutive system is a public water system that buys or otherwise receives some or all of its finished water from one or more wholesale systems, for at least 60 days per year.

Consecutive system entry point is a location at which finished water is delivered at least 60 days per year from a wholesale system to a consecutive system.

* * * * *

Dual sample set is a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under subpart U of this part and determining compliance with the TTHM and HAA5 MCLs under subpart V of this part.

* * * * *

Finished water is water that is introduced into the distribution system of a public water system and is intended for distribution without further treatment, except that necessary to maintain water quality.

* * * * *

Locational running annual average (LRAA) is the average of sample analytical results for samples taken at a particular monitoring site during the previous four calendar quarters.

* * * * *

Stage 2A is the period beginning [date three years following publication of the final rule] until the dates specified in subpart V of this part for compliance with Stage 2B, during which systems must comply with Stage 2A MCLs in § 141.64(b)(2).

* * * * *

Wholesale system is a public water system that treats source water and then sells or otherwise delivers finished water to another public water system for at least 60 days per year. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

3. In § 141.23, the table in paragraph (k)(1) is amended by revising entries 13, 18, 19, and 20; revising the undesignated text after the table; and adding a new footnote 19 to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

* * * * *

(k) Inorganic analysis:

* * * * *

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4] (18th, 19th ed.)	SM [4] (20th ed.)	Other
* * *		*	*	*	*
13. Fluoride:					
Ion Chromatography	[6] 300.0 [19] 300.1	D4327–97	4110 B	4110 B	
Manual Distill.; Color. SPADNS.	.....	.	4500–F B, D	4500–F B, D	
Manual Electrode	.....	D1179–93B	4500–F C	4500–F C	
Automated Electrode	.....	.	.	.	380–75WE [11]
Automated Alizarin	.....	.	4500–F E	4500–F E	129–71W [11]
* * *		*	*	*	*
18. Nitrate:					
Ion Chromatography	[6] 300.0 [19] 300.1	D4327–97	4110 B	4110 B	B1011 [8]
Automated Cadmium Reduction	[6] 353.2	D3867–90A	4500–NO_3 F	4500–NO_3 F	
Ion Selective Electrode	.....	.	4500–NO_3 D	4500–NO_3 D	601 [7]
Manual Cadmium Reduction	.....	D3867–90B	4500–NO_3 E	4500–NO_3 E	
19. Nitrite:					
Ion Chromatography	[6] 300.0 [19] 300.1	D4327–97	4110 B	4110 B	B–1011 [8]
Automated Cadmium Reduction	[6] 353.2	D3867–90A	4500–NO_3 F	4500–NO_3 F	
Manual Cadmium Reduction	.....	D3867–90B	4500–NO_3 E	4500–NO_3 E	
Spectrophotometric	.....		4500–NO_2 B	4500–NO_2 B	
20. Orthophosphate: [12]					

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4] (18th, 19th ed.)	SM [4] (20th ed.)	Other
Colorimetric, automated, ascorbic acid	[6]365.1	.	4500–P F	4500–P F	
Colorimetric, ascorbic acid, single reagent	.....	D515–88A	4500–P E	4500–P E	
Colorimetric, phosphomolybdate	.....	.	.	.	I–1601–85[5]
Automated–segmented flow	.....	.	.	.	I–2601–90[5]
Automated discrete	.....	.	.	.	I–2598–85[5]
Ion Chromatography	[6]300.0 [19]300.1	D4327–97	4110 B	4110 B	
*	*	*	*	*	*

Note: The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1–11 and 16–19 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue NW., Room B102, Washington, DC 20460 (Telephone: 202–566–2426); or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

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[3] *Annual Book of ASTM Standards*, 1994, 1996, or 1999, Vols. 11.01 and 11.02, ASTM International; any year containing the cited version of the method may be used. The previous versions of D1688–95A, D1688–95C (copper), D3559–95D (lead), D1293–95 (pH), D1125–91A (conductivity) and D859–94 (silica) are also approved. These previous versions D1688–90A, C; D3559–90D, D1293–84, D1125–91A and D859–88, respectively are located in the Annual Book of ASTM Standards, 1994, Vol. 11.01. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4] *Standard Methods for the Examination of Water and Wastewater*, 18th edition (1992), 19th edition (1995), or 20th edition (1998). American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005. The cited methods published in any of these three editions may be used, except that the versions of 3111 B, 3111 D, 3113 B and 3114 B in the 20th edition may not be used.

[5] Method I–2601–90, Methods for Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediment, Open File Report 93–125, 1993; For Methods I–1030–85; I–1601–85; I–1700–85; I–2598–85; I–2700–85; and I–3300–85 See Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A–1, 3rd ed., 1989; Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225–0425.

[6] ''Methods for the Determination of Inorganic Substances in Environmental Samples'', EPA/600/R–93/100, August 1993. Available at NTIS, PB94–120821.

[7] The procedure shall be done in accordance with the Technical Bulletin 601 ''Standard Method of Test for Nitrate in Drinking Water'', July 1994, PN 221890–001, Analytical Technology, Inc. Copies may be obtained from ATI Orion, 529 Main Street, Boston, MA 02129.

[8] Method B–1011, ''Waters Test Method for Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography,'' August 1987. Copies may be obtained from Waters Corporation, Technical Services Division, 34 Maple Street, Milford, MA 01757.

* * * * * * *

[11] Industrial Method No. 129–71W, ''Fluoride in Water and Wastewater'', December 1972, and Method No. 380–75WE, ''Fluoride in Water and Wastewater'', February 1976, Technicon Industrial Systems. Copies may be obtained from Bran & Luebbe, 1025 Busch Parkway, Buffalo Grove, IL 60089.

[12] Unfiltered, no digestion or hydrolysis.

[13] Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (*i.e.*, no sample digestion) will be higher. For direct analysis of cadmium and arsenic by Method 200.7, and arsenic by Method 3120 B sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by Method 200.9; antimony and lead by Method 3113 B; and lead by Method D3559–90D unless multiple in-furnace depositions are made.

* * * * * * *

[19] ''Methods for the Determination of Organic and Inorganic Compounds in Drinking Water'', Vol. 1, EPA 815–R–00–014, August 2000. Available at NTIS, PB2000–106981.

* * * * *

4. Section 141.24 is amended by revising paragraph (e)(1) and by revising entry 30 in the table in paragraph (e)(1) to read as follows:

§ 141.24 Organic chemicals, sampling and analytical requirements.

* * * * *

(e) * * *

(1) The following documents are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at EPA's Drinking Water Docket, 1301 Constitution Avenue, NW., EPA West, Room B102, Washington, DC 20460 (Telephone: 202–566–2426); or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Method 508A and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water*, EPA/600/4–88–039, December 1988, Revised, July 1991. Methods 547, 550 and 550.1 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement I*, EPA/600–4–90–020, July 1990. Methods 548.1, 549.1, 552.1 and 555 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II*, EPA/600/R–92–129, August 1992. Methods 502.2, 504.1, 505, 506, 507, 508, 508.1, 515.2, 524.2 525.2, 531.1, 551.1 and 552.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III*, EPA/600/R–95–131, August 1995. Method 1613 is titled ''Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS'', EPA/821–B–94–005, October 1994. These documents are available from the National Technical Information Service, NTIS PB91–231480, PB91–146027, PB92–207703, PB95–261616 and PB95–104774, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. Method 6651 shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater*, 18th edition (1992), 19th edition (1995), or 20th edition (1998), American Public Health Association (APHA); any of these three editions may be used. Method 6610 shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater, (18th Edition Supplement)* (1994), or with the 19th edition (1995) or 20th edition (1998) of *Standard Methods for the Examination of Water and Wastewater*; any of these publications may be used. The APHA documents are available from APHA, 1015 Fifteenth Street NW., Washington, D.C. 20005. Other required analytical test procedures germane to the conduct

of these analyses are contained in *Technical Notes on Drinking Water Methods*, EPA/600/R–94–173, October 1994, NTIS PB95–104766. EPA Methods 515.3 and 549.2 are available from U.S. Environmental Protection Agency, National Exposure Research Laboratory (NERL)—Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268. ASTM Method D 5317–93 is available in the *Annual Book of ASTM Standards*, (1999), Vol. 11.02, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or in any edition published after 1993. EPA Method 515.4, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection,'' Revision 1.0, April 2000, EPA/815/B–00/001 and EPA Method 552.3, ''Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-Liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection,'' Revision 1.0, July 2003 can be accessed and downloaded directly on-line at *http://www.epa.gov/safewater/methods/sourcalt.html*. The Syngenta AG–625, ''Atrazine in Drinking Water by Immunoassay'', February 2001 is available from Syngenta Crop Protection, Inc., 410 Swing Road, Post Office Box 18300, Greensboro, NC 27419, Phone number (336) 632–6000. Method 531.2 ''Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization,'' Revision 1.0, September 2001, EPA 815/B/01/002 can be accessed and downloaded directly on-line at *http://www.epa.gov/safewater/methods/sourcalt.html*.

Contaminant	EPA method [1]	Standard methods	ASTM	Other
* * *	*	*	*	*
30. Dalapon	552.1, 515.1, 552.2, 515.3, 515.4, 552.3			
* * *	*	*	*	*

[1] For previously approved EPA methods which remain available for compliance monitoring until June 1, 2001, *see* paragraph (e)(2) of this section.

* * * * *

5. Section 141.33 is amended by revising the first sentence of paragraph (a) introductory text, and adding paragraph (f) to read as follows:

§ 141.33 Record maintenance.

* * * * *

(a) Records of microbiological analyses and turbidity analyses made pursuant to this part shall be kept for not less than 5 years. * * *

* * * * *

(f) Copies of monitoring plans developed pursuant to this part shall be kept for the same period of time as the records of analyses are required to be kept under paragraph (a) of this section or for three years after modification, whichever is longer.

6. Section 141.53 is amended by revising the table to read as follows:

§ 141.53 Maximum contaminant level goals for disinfection byproducts.

* * * * *

Disinfection byproduct	MCLG (mg/L)
Bromodichloromethane	zero.
Bromoform	zero.
Bromate	zero.
Chlorite	0.8
Chloroform	0.07
Dibromochloromethane	0.06
Dichloroacetic acid	zero.
Monochloroacetic acid	0.03
Trichloroacetic acid	0.02

7. Section 141.64 is revised to read as follows:

§ 141.64 Maximum contaminant levels for disinfection byproducts.

(a) *Bromate and chlorite.* The maximum contaminant levels (MCLs) for bromate and chlorite are as follows:

Disinfection byproduct	MCL (mg/L)
Bromate	0.010
Chlorite	1.0

(1) *Compliance dates for CWSs and NTNCWSs.* Subpart H systems serving 10,000 or more persons must comply with this paragraph (a) beginning January 1, 2002. Subpart H systems serving fewer than 10,000 persons and systems using only ground water not under the direct influence of surface water must comply with this paragraph (a) beginning January 1, 2004.

(2) *Best available technology.* The Administrator, pursuant to section 1412 of the Act, hereby identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for bromate and chlorite identified in this paragraph (a):

Disinfection byproduct	Best available technology
Bromate	Control of ozone treatment process to reduce production bromate.
Chlorite	Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(b) *TTHM and HAA5.*

(1) *Subpart L—RAA compliance. (i) Compliance dates.* Subpart H systems serving 10,000 or more persons must comply with this paragraph (b)(1) beginning January 1, 2002 until the date specified for subpart V of this part compliance in § 141.620(c). Subpart H systems serving fewer than 10,000 persons and systems using only ground water not under the direct influence of surface water must comply with this paragraph (b)(1) beginning January 1, 2004 until the date specified for subpart V of this part compliance in § 141.620(c).

Disinfection byproduct	MCL (mg/L)
Total trihalomethanes (TTHM)	0.080
Haloacetic acids (five) (HAA5)	0.060

(ii) *Best available technology.* The Administrator, pursuant to section 1412 of the Act, hereby identifies the following as the best technology, treatment techniques, or other means

available for achieving compliance with the maximum contaminant levels for TTHM and HAA5 identified in this paragraph (b)(1):

Disinfection byproduct	Best available technology
Total trihalomethanes (TTHM) and Halaocetic acids (five) (HAA5).	Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant.

(2) *Stage 2A—LRAA compliance. (i) Compliance dates.* The Stage 2A MCLs for TTHM and HAA5 must be complied with as a locational running annual average at each subpart L of this part compliance monitoring location under § 141.136 beginning [date three years after publication of the final rule] until the date specified for subpart V of this part compliance in § 141.620(c).

Disinfection byproduct	MCL (mg/L)
Total trihalomethanes (TTHM)	0.120
Haloacetic acids (five) (HAA5)	0.100

(ii) *Best available technology.* The Administrator, pursuant to section 1412 of the Act, hereby identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for TTHM and HAA5 identified in this paragraph (b)(2):

Disinfection byproduct	Best available technology
Total trihalomethanes (TTHM) and Haloacetic acids (five) (HAA5).	Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant.

(3) *Subpart V LRAA compliance. (i) Compliance dates.* The subpart V of this part MCLs for TTHM and HAA5 must be complied with as a locational running annual average at each monitoring location beginning the date specified for Subpart V of this part compliance in § 141.620(c).

Disinfection byproduct	MCL (mg/L)
Total trihalomethanes (TTHM)	0.080
Haloacetic acids (five) (HAA5)	0.060

(ii) *Best technology for systems that disinfect their source water.* The Administrator, pursuant to section 1412 of the Act, hereby identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for TTHM and HAA5 identified in this paragraph (b)(3) for all systems that disinfect their source water:

Disinfection byproduct	Best available technology
Total trihalomethanes (TTHM) and Haloacetic acids (five) (HAA5).	Enhanced coagulation or enhanced softening, plus GAC10; or nanofiltration with a molecular weight and cutoff ≤1000 Daltons; or GAC20.

(iii) *Best available technology for systems that buy disinfected water.* The Administrator, pursuant to section 1412 of the Act, hereby identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for TTHM and HAA5 identified in this paragraph (b)(3) for systems that buy disinfected water:

Disinfection byproduct	Best available technology
Total trihalomethanes (TTHM) and Haloacetic acids (five) (HAA5).	Improved distribution system and storage tank management to reduce detention time plus the use of chloramines for disinfectant residual maintenance.

(c) *Extensions.* A system that is installing GAC or membrane technology to comply with the MCLs in paragraphs (a) or (b)(1) of this section may apply to the State for an extension of up to 24 months past January 1, 2002, but not beyond January 1, 2004. In granting the extension, States must set a schedule for compliance and may specify any interim measures that the system must take. Failure to meet the schedule or any interim treatment requirements constitutes a violation of a National Primary Drinking Water Regulation.

Subpart L—[Amended]

8. Section 141.131 is amended by revising paragraphs (a), (b), (d)(2), (d)(3), (d)(4)(i), (d)(4)(ii), and the table in paragraph (c)(1), and adding paragraph (d)(6) to read as follows:

§ 141.131 Analytical requirements.

(a) *General.* (1) Systems must use only the analytical methods specified in this section, or their equivalent as approved by EPA, to demonstrate compliance with the requirements of this subpart and with the requirements of subparts U and V. These methods are effective for compliance monitoring February 16, 1999, unless a different effective date is specified in this section or by the State.

(2) The following documents are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected at EPA's Drinking Water Docket, 1301 Constitution Avenue, NW., EPA West, Room B102, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. EPA Method 552.1 is in *Methods for the Determination of Organic Compounds in Drinking Water-Supplement II,* USEPA, August 1992, EPA/600/R–92/129 (available through National Information Technical Service (NTIS), PB92–207703). EPA Methods 502.2, 524.2, 551.1, and 552.2 are in *Methods for the Determination of Organic Compounds in Drinking Water-Supplement III,* USEPA, August 1995, EPA/600/R–95/131. (Available through NTIS, PB95–261616). EPA Method 300.0 for chlorite and bromide is in *Methods for the Determination of Inorganic Substances in Environmental Samples,* USEPA, August 1993, EPA/600/R–93/100 (available through NTIS, PB94–121811). EPA Methods 300.1 for chlorite, bromate, and bromide and 321.8 for bromate are in *Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1,* USEPA, August 2000, EPA 815–R–00–014 (available through NTIS, PB2000–106981). EPA Method 317.0, Revision 2.0, ''Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromotography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis,'' USEPA, July 2001, EPA 815–B–01–001, EPA Method 326.0, Revision 1.0, ''Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis,'' USEPA, June 2002, EPA 815–R–03–007, EPA Method 327.0, Revision 1.0, ''Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry,'' USEPA, July 2003, and EPA Method 552.3, Revision 1.0, ''Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-liquid Extraction, Derivatization, and Gas Chromatography with Electron Capture Detection,'' USEPA, July 2003, can be

accessed and downloaded directly on-line at *www.epa.gov/safewater/methods/sourcalt.html.* EPA Method 415.3, Revision 1.0, ''Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water,'' USEPA, June 2003, is available from: Chemical Exposure Research Branch, Microbiological & Chemical Exposure Assessment Research Division, National Exposure Research Laboratory, U.S. Environmental Protection Agency, Cincinnati, OH 45268, Fax Number 513–569–7757, Phone number: 513–569–7586. Standard Methods 4500–Cl D, 4500–Cl E, 4500–Cl F, 4500–Cl G, 4500–Cl H, 4500–Cl I, 4500–ClO_2 E, 6251 B, and 5910 B shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater, 19th or 20th Editions or the On-Line Version,* American Public Health Association, 1995, 1998, and 2003, respectively. The cited methods published in any of these three editions may be used. Standard Method 4500–ClO_2 D shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater, 19th or 20th Editions,* American Public Health Association, 1995 and 1998, respectively. Standard Methods 5310 B, 5310 C, and 5310 D shall be followed in accordance with the *Supplement to the 19th Edition of Standard Methods for the Examination of Water and Wastewater,* or the *Standard Methods for the Examination of Water and Wastewater, 20th Edition,* or *the On-Line Version,* American Public Health Association, 1995, 1998, and 2003, respectively. The cited methods published in any of these editions may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005. ASTM Method D 1253–86 shall be followed in accordance with the *Annual Book of ASTM Standards,* Volume 11.01, American Society for Testing and Materials, 1996 or any year containing the cited version of the method may be used. ASTM D 6581–00 shall be followed in accordance with the *Annual Book of ASTM Standards,* Volume 11.01, American Society for Testing and Materials, 2001 or any year containing the cited version of the method may be used; copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohoken, PA 19428–2959.

(b) *Disinfection byproducts.* (1) Systems must measure disinfection byproducts by the methods (as modified by the footnotes) listed in the following table:

APPROVED METHODS FOR DISINFECTION BYPRODUCT COMPLIANCE MONITORING

Contaminant and methodology [1]	EPA method	Standard Method [2]	ASTM Method [3]
TTHM:			
P&T/GC/ElCD & PID	502.2 [4]		
P&T/GC/MS	524.2		
LLE/GC/ECD	551.1		
HAA5:			
LLE (diazomethane)/GC/ECD		6251 B [5].	
SPE (acidic methanol)/GC/ECD	552.1 [5]		
LLE (acidic methanol)/GC/ECD	552.2, 552.3.		
Bromate:			
Ion chromatography	300.1	.....	D 6581–00
Ion chromatography & post column reaction	317.0 Rev 2.0 [6], 326.0 [6]		
IC/ICP–MS	321.8 [6, 7]		
Chlorite:			
Amperometric titration		4500–ClO_2 E [8].	
Spectrophotometry	327.0 [8].	.	
Ion chromatography	300.0, 300.1, 317.0 Rev. 2.0, 326.0	.....	D 6581–00

[1] P&T = purge and trap; GC = gas chromatography; ElCD = electrolytic conductivity detector; PID = photoionization detector; MS = mass spectrometer; LLE = liquid/liquid extraction; ECD = electron capture detector; SPE = solid phase extraction; IC = ion chromatography; ICP-MS = inductively coupled plasma/mass spectrometer

[2] 219th or 20th editions or the On-Line Version of *Standard Methods for the Examination of Water and Wastewater,* 1995, 1998, and 2003, respectively, American Public Health Association; any of these editions may be used.

[3] *Annual Book of ASTM Standards,* 2001 or any year containing the cited version of the method, Vol 11.01.

[4] If TTHMs are the only analytes being measured in the sample, then a PID is not required.

[5] The samples must be extracted within 14 days of sample collection.

[6] Ion chromatography & post column reaction or IC/ICP-MS must be used for monitoring of bromate for purposes of demonstrating eligibility of reduced monitoring, as prescribed in § 141.132(b)(3)(ii).

[7] Samples must be preserved at the time of sampling with 50 mg ethylenediamine (EDA)/L of sample and must be analyzed within 28 days.

[8] Amperometric titration or spectrophotometry may be used for routine daily monitoring of chlorite at the entrance to the distribution system, as prescribed in § 141.132(b)(2)(i)(A). Ion chromatography must be used for routine monthly monitoring of chlorite and additional monitoring of chlorite in the distribution system, as prescribed in § 141.132(b)(2)(i)(B) and (b)(2)(ii).

(2) Analysis under this section for disinfection byproducts must be conducted by laboratories that have received certification by EPA or the State, except as specified under paragraph (b)(3)of this section. To receive certification to conduct analyses for the DBP contaminants in §§ 141.64, 141.135, and subparts U and V of this part, the laboratory must:

(i) Analyze Performance Evaluation (PE) samples that are acceptable to EPA or the State at least once during each consecutive 12 month period by each method for which the laboratory desires certification.

(ii) Achieve quantitative results on the PE sample analyses that are within the following acceptance limits which become effective [date 60 days after date of final rule publication] for purposes of certification:

DBP	Acceptance limits (percent)	Comments
TTHM:		
Chloroform	±20	Laboratory must meet all 4 individual THM acceptance limits in order to successfully pass a PE sample for TTHM.
Bromodichloromethane	±20	
Dibromochloromethane	±20	
Bromoform	±20	
HAA5:		
Monochloroacetic Acid	±40	Laboratory must meet the acceptance limits for 4 out of 5 of the HAAS compounds in order to successfully pass a PE sample for HAA5.
Dichloroacetic Acid	±40	
Trichloroacetic Acid	±40	
Monobromacetic Acid	±40	
Dibromoacetic Acid	±40	
Chlorite	±30	
Bromate	±30	

(iii) Report quantitative data for concentrations at least as low as the ones listed in the following table for all DBP samples analyzed for compliance with §§ 141.64, 141.135, 141.136, and subparts U and V of this part:

DBP	Minimum reporting level (ug/L) [7]	Comments
TTHM [2]:		
Chloroform	1.0	
Bromodichloromethane	1.0	
Dibromochloromethane	1.0	
Bromoform	1.0	
HAA5: [2]		
Monochloroacetic Acid	2.0	
Dichloroacetic Acid	1.0	
Trichloroacetic Acid	1.0	
Monobromoacetic Acid	1.0	
Dibromoacetic Acid	1.0	
Chlorite	200.	
Bromate	5.0 or 1.0	Laboratories that use EPA Methods 317.0 Revision 2.0, 326.0 or 321.8 must meet a 1.0 μg/L MRL for bromate.

[1] The calibration curve must encompass the minimum reporting level (MRL) concentration and the laboratory must verify the accuracy of the calibration curve at the lowest concentration for which quantitative data are reported by analyzing a calibration check standard at that concentration at the beginning of each batch of samples. The measured concentration for the check standard must be within ±50% of the expected value. Data may be reported for concentrations lower than the MRL as long as the precision and accuracy criteria are met by analyzing a standard at the lowest reporting limit chosen by the laboratory.

[2] When adding the individual trihalomethane or haloacetic acid concentrations to calculate the TTHM or HAA5 concentrations, respectively, a zero is used for any analytical result that is less than the MRL concentration for that DBP.

(3) A party approved by EPA or the State must measure daily chlorite samples at the entrance to the distribution system.

(c) * * *

(1) * * *

Methodology	Standard method	ASTM method	EPA method	Residual Measured [1]			
				Free chlorine	Combined chlorine	Total chlorine	Chlorine dioxide
Amperometric Titration	4500–Cl D	D 1253–86		X	X	X	
Low Level Amperometric Titration	4500–Cl E					X	
DPD Ferrous Titrimetric	4500–Cl F			X	X	X	
DPD Colorimetric	4500–Cl G			X	X	X	
Syringaldazine (FACTS)	4500–Cl			X			
Iodometric Electrode	4500–Cl					X	
DPD	4500–ClO_2						X
Amperometric Method II	4500–ClO_2 E						X
Lissamine Green Spectrophotometric			327.0				X

[1] X indicates method is approved for measuring specified disinfectant residual. Free chlorine or total chlorine may be measured for demonstrating compliance with the chlorine MRDL and combined chlorine or total chlorine may be measured for demonstrating compliance with the chloramine MRDL.

* * * * *

(d) * * *

(2) *Bromide.* EPA Methods 300.0, 300.1, 317.0 Revision 2.0, 326.0, or ASTM D 6581–00.

(3) *Total Organic Carbon (TOC).* Standard Method 5310 B (High-Temperature Combustion Method) or Standard Method 5310 C (Persulfate-Ultraviolet or Heated-Persulfate Oxidation Method) or Standard Method 5310 D (Wet-Oxidation Method) or EPA Method 415.3. Inorganic carbon must be removed from the samples prior to analysis. TOC samples may not be filtered prior to analysis. TOC samples must be acidified at the time of sample collection to achieve pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified TOC samples must be analyzed within 28 days.

(4) * * *

(i) Dissolved Organic Carbon (DOC). Standard Method 5310 B (High-Temperature Combustion Method) or Standard Method 5310 C (Persulfate-Ultraviolet or Heated-Persulfate Oxidation Method) or Standard Method 5310 D (Wet-Oxidation Method) or EPA Method 415.3. DOC samples must be filtered through the 0.45 µm pore-diameter filter as soon as practical after sampling, not to exceed 48 hours. After filtration, DOC samples must be acidified to achieve pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified DOC samples must be analyzed within 28 days. Inorganic carbon must be removed from the samples prior to analysis. Water passed through the filter prior to filtration of the sample must serve as the filtered blank. This filtered blank must be analyzed using procedures identical to those used for analysis of the samples and must meet the following criteria: DOC < 0.5 mg/L.

(ii) Ultraviolet Absorption at 254 nm (UV_{254}). Standard Method 5910 B (Ultraviolet Absorption Method) or EPA Method 415.3. UV absorption must be measured at 253.7 nm (may be rounded off to 254 nm). Prior to analysis, UV_{254} samples must be filtered through a 0.45 µm pore-diameter filter. The pH of UV_{254} samples may not be adjusted. Samples must be analyzed as soon as practical after sampling, not to exceed 48 hours.

* * * * *

(6) *Magnesium.* All methods allowed in § 141.23(k)(1) for measuring magnesium.

9. Section 141.132 is amended by revising paragraphs (b)(3)(ii) and (e) to read as follows:

§ 141.132 Monitoring requirements.

* * * * *

(b) * * *

(i) * * *

(ii) *Reduced monitoring.*

(A) Until [date three years from final rule publication], systems required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's average source water bromide concentration is less than 0.05 mg/L based on representative monthly bromide measurements for one year. The system may remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L based on representative monthly measurements. If the running annual average source water bromide concentration is ≥0.05 mg/L, the system must resume routine monitoring required by paragraph (b)(3)(i) of this section.

(B) Beginning [date three years from final rule publication], systems may no longer use the provisions of paragraph (b)(3)(ii)(A) of this section to qualify for reduced monitoring. A system required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's running annual average bromate concentration is less than 0.0025 mg/L based on monthly bromate measurements under paragraph (b)(3)(i) of this section for the most recent four quarters, with samples analyzed using Method 317.0 Revision 2.0, 325.0 or 321.8. If a system has qualified for reduced bromate monitoring under paragraph (b)(3)(ii)(A) of this section, that system may remain on reduced monitoring as long as the running annual average of quarterly bromate samples does not exceed 0.0025 mg/L based on samples analyzed using Method 317.0 Revision 2.0, 325.0, or 321.8. If the running annual average bromate concentration is >0.0025 mg/L, the system must resume routine monitoring required by paragraph (b)(3)(i) of this section.

* * * * *

(e) *Monitoring requirements for source water TOC.* In order to qualify for reduced monitoring for TTHM and HAA5 under paragraph (b)(1)(ii) of this section, subpart H systems not monitoring under the provisions of paragraph (d) of this section must take monthly TOC samples approximately every 30 days at a location prior to any treatment. In addition to meeting other criteria for reduced monitoring in paragraph (b)(1)(ii) of this section, the source water TOC running annual average must be ≤4.0 mg/L (based on the most recent four quarters of monitoring) on a continuing basis at each treatment plant to reduce or remain on reduced monitoring for TTHM and HAA5.

* * * * *

10. Section 141.134 is amended by revising paragraph (b) introductory text to read as follows:

§ 141.134 Reporting and recordkeeping requirements.

* * * * *

(b) *Disinfection byproducts.* In addition to reporting required under § 141.136(e), systems must report the information specified in the following table:

* * * * *

11. Section 141.135 is amended by revising paragraph (a)(3)(ii) to read as follows:

§ 141.135 Treatment technique for control of disinfection byproduct (DBP) precursors.

(a) * * *

(3) * * *

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as $CaCO_3$), measured monthly according to § 141.131(d)(6) and calculated quarterly as a running annual average.

* * * * *

12. Section 141.136 is added to subpart L to read as follows:

§ 141.136 Additional compliance requirements for Stage 2A.

(a) *Applicability.* Any system that takes TTHM and HAA5 compliance samples under this subpart at more than one location in its distribution system is subject to additional MCL requirements beginning [date 3 years after publication of final rule] until the dates identified for compliance with subpart V in § 141.620(c). Any system that takes samples at more than one location must calculate a locational running annual average (LRAA) for each sampling point and comply with the MCLs of 0.120 mg/L for TTHM and 0.100 mg/L for HAA5 listed in § 141.64(b)(2), except as provided for under paragraph (c) of this section.

(b) *Compliance.* (1) Systems must calculate a locational running annual average each quarter for each monitoring location at which they took TTHM and HAA5 samples under their monitoring plan developed under § 141.132(f) by averaging the results of TTHM or HAA5 monitoring at that sample location during the four most recent quarters.

(2) Systems required to conduct quarterly monitoring under this subpart must begin to make compliance calculations under paragraph (b) of this

section at the end of the fourth calendar quarter that follows the compliance date in paragraph (a) of this section and at the end of each subsequent quarter. Systems required to conduct monitoring at a frequency that is less than quarterly under this subpart must make compliance calculations under paragraph (b) of this section beginning with the first compliance sample taken after the compliance date in paragraph (a) of this section.

(3) Failure to monitor will be treated as a monitoring violation for each quarter that a monitoring result would be used in a locational running annual average compliance calculation.

(c) *Consecutive systems.* A consecutive system must comply with the TTHM and HAA5 MCLs in § 141.64(b)(2) at each monitoring location in its distribution system identified in its monitoring plan developed under § 141.132(f).

(d) *Reporting.* Systems must submit the compliance calculations and locational running annual averages under this section as part of the reports required under § 141.134.

Subpart O—[Amended]

13. Section 141.151 is amended by revising paragraph (d) to read as follows:

§ 141.151 Purpose and applicability of this subpart.

* * * * *

(d) For the purpose of this subpart, *detected* means: At or above the levels prescribed by § 141.23(a)(4) for inorganic contaminants, at or above the levels prescribed by § 141.24(f)(7) for the contaminants listed in § 141.61(a), at or above the levels prescribed by § 141.24(h)(18) for the contaminants listed in § 141.61(c), at or above the levels prescribed by § 141.131(b)(2)(iii) for the contaminants or contaminant groups listed in § 141.64 and § 141.153(d)(iv), and at or above the levels prescribed by § 141.25(c) for radioactive contaminants.

* * * * *

14. Section 141.153 is amended by revising paragraphs (d)(4)(iv)(B) and (d)(4)(iv)(C) to read as follows:

§ 141.153 Content of the reports.

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(B) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL. For the MCLs for TTHM and HAA5 in § 141.64(b)(2) and (3), systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all sampling points expressed in the same units as the MCL. If more than one site exceeds the MCL, the system must include the locational running annual averages for all sites that exceed the MCL.

(C) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection expressed in the same units as the MCL. The system is not required to include the range of individual sample results for the IDSE conducted under subpart U of this part.

* * * * *

Subpart Q—[Amended]

15. In Appendix A, the table is amended by revising entries 1.G.1 and 1.G.2, and endnotes 12 and 20, to read as follows:

APPENDIX A TO SUBPART Q OF PART 141.—NPDWR VIOLATIONS AND OTHER SITUATIONS REQUIRING PUBLIC NOTICE [1]

Contaminant	MCL/MRDL/TT violations[2]		Monitoring and testing procedure violations	
	Tier of public notice required	Citation	Tier of public notice required	Citation
I. Violations of National Primary Drinking Water Regulations (NPDWR):[3]				
* * * * * * *				
G. Disinfection Byproducts, * * *				
1. Total trihalomethanes (TTHM)	2	141.12[12], 141.64(b)[20]	3	141.30[12], 141.132(a)–(b)[20], 141.620–.630
2. Haloacetic acids (HAA5)	2	141.64(b)[20]	3	141.132(a)–(b)[20], 141.620–.630

* * * * *

Appendix A—Endnotes

12. §§ 141.12 and 141.30 will no longer apply after December 31, 2003.

* * * * *

20. §§ 141.64(b)(1) and 141.132(a)-(b) apply until §§ 141.64(b)(3) and 141.620–.630 take effect under the schedule in § 141.620(c). § 141.64(b)(2) takes effect on [date three years following final rule publication] and remains in effect until the effective dates for subpart V of this part compliance in the table in § 141.620(c).

* * * * *

16. In Appendix B the table is amended by revising entries H.79, H.80, and endnote 17, and adding endnote 23, to read as follows:

APPENDIX B TO SUBPART Q OF PART 141—STANDARD HEALTH EFFECTS LANGUAGE FOR PUBLIC NOTIFICATION

Contaminant	MCLG[1] mg/L	MCL[2] mg/L	Standard health effects language for public notification
* * * * * * *			
H. Disinfection Byproducts (DBPs), * * *[17]:			
79. Total trihalomethanes (TTHLM)	N/A	0.10/0.120/0.080[18, 19, 23]	* * *
80. Haloacetic acids (HAA5).	N/A	0.060/0.100[20, 23]	* * *

* * * * *

Appendix B—Endnotes

* * * * *

17. Surface water systems and ground water systems under the direct influence of surface water are regulated under subpart H of 40 CFR 141. Subpart H community and non-transient non-community systems serving ≥10,000 must comply with subpart L DBP MCLs and disinfectant maximum residual disinfectant levels (MRDLs) beginning January 1, 2002. All other community and non-transient non-community systems must comply with subpart L DBP MCLs and disinfectant MRDLs beginning January 1, 2004. Subpart H transient non-community systems serving ≥10,000 that use chlorine dioxide as a disinfectant or oxidant must comply with the chlorine dioxide MRDL beginning January 1, 2002. All other transient non-community systems that use chlorine dioxide as a disinfectant or oxidant must comply with the chlorine dioxide MRDL beginning January 1, 2004.

* * * * *

23. Community and non-transient non-community systems must comply with TTHM and HAA5 MCLs of 0.120 mg/L and 0.100 mg/L, respectively (with compliance calculated as a locational running annual average) beginning [date three years following publication of final rule] until they are required to comply with subpart V TTHM and HAA5 MCLs of 0.080 mg/L and 0.060 mg/L, respectively (with compliance calculated as a locational running annual average). Community and non-transient non-community systems serving ≥10,000 must comply with subpart V TTHM and HAA5 MCLs (with compliance calculated as a locational running annual average) beginning [date six years following publication of final rule]. Community and non-transient non-community systems serving <10,000 must comply with subpart V TTHM and HAA5 MCLs (with compliance calculated as a locational running annual average) beginning [date 90 months following publication of final rule].

* * * * *

17. Part 141 is amended by adding new subpart U to read as follows:

Subpart U—Initial Distribution System Evaluations

Sec.

141.600 General requirements.
141.601 Initial Distribution System Evaluation (IDSE) requirements.
141.602 IDSE monitoring.
141.603 Alternatives other than IDSE monitoring.
141.604 IDSE reports.
141.605 Subpart V monitoring location recommendations to the State.

Subpart U—Initial Distribution System Evaluations

§ 141.600 General requirements.

(a) The requirements of subpart U constitute national primary drinking water regulations. The regulations in this subpart establish monitoring and other requirements for identifying compliance monitoring locations to be used for determining compliance with maximum contaminant levels for total trihalomethanes (TTHM) and haloacetic acids (five)(HAA5) in subpart V through the use of an Initial Distribution System Evaluation (IDSE). IDSEs are studies, used in conjunction with subpart L compliance monitoring, to identify and select subpart V compliance monitoring sites that represent high TTHM and HAA5 levels throughout the distribution system. The studies will be based on system-specific monitoring as provided in § 141.602. As an alternative, you may use other system-specific data that provide equivalent or better information on site selection for monitoring under subpart V as provided for in § 141.603(a).

(b) *Applicability.* You are subject to these requirements if your system is a community water system that adds a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light or if your system is a nontransient noncommunity water system that serves at least 10,000 people and adds a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light. You must conduct an Initial Distribution System Evaluation (IDSE), unless you meet the 40/30 certification criteria in § 141.603(b) or the State has granted a very small system waiver for the IDSE or you meet the criteria defined by the State for a very small system waiver under § 141.603(c). If you have a very small system waiver for the IDSE under § 141.603(c), you are not required to submit an IDSE report. All other systems must submit an IDSE report, even if you meet the 40/30 certification criteria in § 141.603(c).

(c) *Schedule.* You must comply with the Initial Distribution System Evaluation (IDSE) on the schedule in the following table, based on your system type.

If you are this type of system	You must submit your IDSE report to the state by[1]
(1) Subpart H serving ≥10,000	[date 24 mos. following publication of final rule]
(2) Subpart H serving <10,000	[date 24 mos. following publication of final rule][2]
(3) Ground water serving ≥10,000	[date 24 mos. following publication of final rule]
(4) Ground water serving <10,000	[date 24 mos. following publication of final rule][2]
(5) Consecutive system	at the same time as the system with the earliest compliance date in the combined distribution system[3]

[1] Systems that meet the 40/30 certification criteria in § 141.603(b) are encouraged to submit their IDSE report as soon as the certification criteria are met.

[2] You must comply by [date 24 mos. following publication of final rule] if you are a wholesale system and any system in the combined distribution system serves at least 10,000 people. You must comply by [date 48 mos. following publication of final rule] if no system in the combined distribution system serves at least 10,000 people.

[3] You must comply by [date 24 mos. following publication of final rule] if any system in the combined distribution system serves at least 10,000 people. You must comply by [date 48 mos. following publication of final rule] if no system in the combined distribution system serves at least 10,000 people.

(d) *Violations.* You must comply with specific monitoring and reporting requirements. You must prepare for, conduct, analyze, and submit your IDSE report no later than the date specified in § 141.600(c). Failure to conduct a required IDSE or to submit a required IDSE report by the date specified in paragraph (c) of this section is a monitoring violation. If you do not submit your IDSE report to your State, or if you submit the report after the specified date, you must comply with any additional State-specified requirements, which may include conducting another IDSE.

§ 141.601 Initial Distribution System Evaluation (IDSE) requirements.

(a) You must conduct an IDSE that meets the requirements in § 141.602 or § 141.603(a) or meet the 40/30 certification criteria in § 141.603(b) or have received a very small system waiver for the IDSE from the State under § 141.603(c). If you do not take the full complement of TTHM and HAA5 compliance samples required of a system with your population and source water under subpart L, but are required to conduct an IDSE under this subpart, you are not eligible for either the 40/30 certification in § 141.603(b) or the very small system waiver in § 141.603(c) and must conduct an IDSE that meets the requirements in § 141.602 or § 141.603(a).

(b) You may use any alternative listed in the table below for which you qualify.

IDSE ALTERNATIVES

Alternatives	Eligibility	Regulatory reference
(1) Monitoring	All systems required to conduct an IDSE	§ 141.602
(2) System-specific study	All systems required to conduct an IDSE	§ 141.603(a)
(3) 40/30 certification	Any system with all TTHM compliance samples ≤0.040 mg/L and all HAA5 compliance samples ≤0.030 mg/L during the period specified in § 141.603(b).	§ 141.603(b)
(4) Very small system waiver.	Any system serving <500 for which the State has granted a waiver	§ 141.603(c)

(c) IDSE results will not be used for the purpose of determining compliance with MCLs in § 141.64.

(d) *Additional provisions:*

(1) You may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with State approval in accordance with criteria developed under § 142.16(h)(5) of this chapter. State approvals made under § 141.132(a)(2) to treat multiple wells drawing water from a single aquifer as one treatment plant remain in effect unless withdrawn by the State.

(2) If you are a consecutive system, you must comply with the IDSE requirements in this subpart based on whether you buy some or all of your water from another PWS during 2004 for systems with an IDSE report due [date 24 months after publication of final rule] or during 2006 for systems with an IDSE report due [date 48 months after publication of final rule]. A consecutive system that buys some, but not all, of its finished water during the period identified in this paragraph must treat each consecutive system entry point from a wholesale system as a treatment plant for the consecutive system for the purpose of determining monitoring requirements of this subpart if water is delivered from the wholesale system to the consecutive system for at least 60 consecutive days through any of the consecutive system entry points. A consecutive system that buys all its finished water during the period identified in this paragraph must monitor based on population and source water for the purpose of determining monitoring requirements of this subpart.

(i) You may request that the State allow multiple consecutive system entry points from a single wholesale system to a single consecutive system to be considered one treatment plant.

(ii) In the request to the State for approval of multiple consecutive system entry points to be considered one treatment plant, you must demonstrate that factors such as relative locations of entry points, detention times, sources, and the presence of treatment (such as corrosion control or booster disinfection) will have a minimal differential effect on TTHM and HAA5 formation associated with individual entry points.

§ 141.602 IDSE monitoring.

(a) You must conduct IDSE monitoring for each treatment plant as indicated in the table in this paragraph. You must collect dual sample sets at each monitoring location. One sample in the set must be analyzed for TTHM. The other sample in the set must be analyzed for HAA5. If approved by the State under the provisions of § 141.601(d)(1), you may consider multiple wells drawing water from the same aquifer to be one treatment plant for the purpose of determining monitoring requirements. You must conduct one monitoring period during the peak historical month for TTHM levels or HAA5 levels or the month of warmest water temperature. You must review available compliance, study, or operational data to determine the peak historical month for TTHM or HAA5 levels or warmest water temperature.

If you are this type of system	Then you must monitor	At these locations for each treatment plant [1,2]
(1) Subpart H serving ≥10,000	Approximately every 60 days for one year (six monitoring periods).	Eight dual sample sets per monitoring period at locations other than subpart L TTHM/HAA5 monitoring locations based on conditions: If CHLORINE is used as residual disinfectant: one near distribution system entry point, two at average residence time, five at points representative of highest expected TTHM (three sites) and HAA5 concentration (two sites). If CHLORAMINE is used as residual disinfectant for any part of the year: two near distribution system entry point, two at average residence time, four at points representative of highest expected TTHM (two sites) and HAA5 concentration (two sites).
(2) Subpart H serving 500-9,999.	Approximately every 90 days for one year (four monitoring periods).	Two dual sample sets per monitoring period at locations other than the for one year subpart L TTHM/HAA5 monitoring location; one each representative of expected high periods) TTHM level and HAA5 level.
(3) Subpart H serving <500	Approximately every 180 days for one year (two monitoring periods).	Two dual sample sets per monitoring period at locations other than the subpart L TTHM/HAA5 monitoring location; one each representative of expected high periods) TTHM level and HAA5 level.
(4) Ground water serving ≥10,000.	Approximately every 90 days for one year (four monitoring periods).	Two dual sample sets per monitoring period at locations other than the subpart L TTHM/HAA5 monitoring location; one each representative of expected high periods) TTHM level and HAA5 level.
(5) Ground water serving < 10,000.	Approximately every 180 days for one year (two monitoring periods).	Two dual sample sets per monitoring period at locations other than the subpart L TTHM/HAA5 monitoring location; one each representative of expected high periods) TTHM level and HAA5 level.
(6) Consecutive system	At a frequency based on source water and your population [3].	—For a consecutive system that buys all its finished water, number of samples and locations as specified in paragraph (b) of this section. —For a consecutive system that buys some, but not all, of its finished water, serves ≥10,000, and receives water from a subpart H system: at IDSE locations required of a subpart H system serving ≥10,000. —For a consecutive system that does not meet any other criteria in this paragraph: two dual sample sets per monitoring period at locations other than the subpart L TTHM/HAA5 compliance monitoring location; one each representative of expected high TTHM levels and HAA5 levels.

[1] Including treatment plants for consecutive system entry points that operate for at least 60 consecutive days.
[2] The State may require additional monitoring.
[3] You must monitor at the frequency required of a subpart H system with your population if you deliver any water required to be treated under subpart H. You must monitor at the frequency required of a ground water system with your population if you deliver no water required to be treated under subpart H.

(b) *IDSE monitoring for consecutive systems that buy all their water.*

IDSE MONITORING LOCATIONS FOR CONSECUTIVE SYSTEMS THAT BUY ALL THEIR WATER

Population category	Number of dual sample set locations per monitoring period	Distribution system dual sample set locations [1]			
		Near entry points [2]	Average residence time	Highest TTHM locations	Highest HAA5 locations
Subpart H Consecutive Systems that buy all their water					
<500 [3]	2			1	1
500 to 4,999 [4]	2			1	1
5,000 to 9,999 [4]	4		1	2	1
10,000 to 24,999 [5]	8	1	2	3	2
25,000 to 49,999 [5]	12	2	3	4	3
50,000 to 99,999 [5]	16	3	4	5	4
100,000 to 499,999 [5]	24	4	6	8	6
500,000 to 1,499,999 [5]	32	6	8	10	8
1,500,000 to 4,999,999 [5]	40	8	10	12	10
>=5,000,000 [5]	48	10	12	14	12

IDSE MONITORING LOCATIONS FOR CONSECUTIVE SYSTEMS THAT BUY ALL THEIR WATER—Continued

Population category	Number of dual sample set locations per monitoring period	Distribution system dual sample set locations [1]			
		Near entry points [2]	Average residence time	Highest TTHM locations	Highest HAA5 locations
Ground Water Consecutive Systems that buy all their water					
<500 [3]	2			1	1
500 to 9,999 [4]	2			1	1
10,000 to 99,999 [4]	6	1	1	2	2
100,000 to 499,999 [4]	8	1	1	3	3
≥500,000 [4]	12	2	2	4	4

[1] Sampling locations to be distributed through distribution system. You may not use subpart L compliance monitoring locations as IDSE sample sites. You must collect a dual sample set at each sample location.

[2] If the actual number of entry points to the distribution system is fewer than the specified number of ''near entry point'' sampling sites, take additional samples equally at highest TTHM and HAA5 locations. If there is an odd extra location number, take the odd sample at highest TTHM location. If the actual number of entry points to the distribution system is more than the specified number of sampling locations, take samples first at subpart H entry points to the distribution system having the highest water flows and then at ground water entry points to the distribution system having the highest water flows.

[3] You must conduct monitoring during two monitoring periods approximately 180 days apart.

[4] You must conduct monitoring during four monitoring periods approximately 90 days apart.

[5] You must conduct monitoring during six monitoring periods approximately 60 days apart.

(c) You must prepare an IDSE monitoring plan prior to starting IDSE monitoring and implement that plan. In the plan, you must identify specific monitoring locations and dates that meet the criteria in paragraphs (a) and (b) of this section, as applicable.

§ 141.603 Alternatives other than IDSE monitoring.

In lieu of IDSE monitoring under § 141.602, you may use one of the alternatives identified in paragraphs (a) through (c) of this section for which you qualify to comply with this subpart.

(a) *System-specific study.* You may perform an IDSE study based on system-specific monitoring or system-specific data if such a study identifies equivalent or superior monitoring sites representing high TTHM and HAA5 levels as would be identified by IDSE monitoring under § 141.602. You must submit an IDSE report that complies with § 141.604.

(b) *40/30 certification.* In order to qualify for the 40/30 certification, you must not have had any TTHM or HAA5 monitoring violations during the periods specified in paragraphs (b)(1) through (b)(3) of this section.

(1) You are not required to comply with § 141.602 or paragraph (a) of this section if you certify to your State that all compliance samples under subpart L in 2002 and 2003 (for subpart H systems serving ≥10,000 people) or in 2004 and 2005 (for systems serving <10,000 people that are not required to submit an IDSE report by [date 24 months following publication of final rule]) were ≤0.040 mg/L for TTHM and ≤0.030 mg/L for HAA5.

(2) If you are a ground water system serving ≥10,000 people, you are not required to comply with § 141.602 or paragraph (a) of this section if you certify to your State that all TTHM samples taken under § 141.30 in 2003 are ≤0.040 mg/L and that all TTHM and HAA5 compliance samples taken under subpart L during 2004 are ≤0.040 mg/L and ≤0.030 mg/L, respectively.

(3) If you are a consecutive system serving <10,000 required to submit an IDSE report by [date 24 months following publication of final rule], you are not required to comply with § 141.602 or paragraph (a) of this section if you certify to your State that all TTHM and HAA5 compliance samples taken under subpart L during 2004 are ≤0.040 mg/L and ≤0.030 mg/L, respectively.

(4) You must submit an IDSE report that complies with § 141.604 and contains the required certification.

(c) *Very small system waiver.* If you serve fewer than 500 people, the State may waive IDSE monitoring if the State determines that the TTHM and HAA5 monitoring site for each plant under § 141.132 is sufficient to represent both the highest TTHM and the highest HAA5 concentration in your distribution system. If your IDSE monitoring is waived, you are not required to submit an IDSE report. You must monitor under subpart V during the same month and at the same location as used for compliance sampling in subpart L.

§ 141.604 IDSE reports.

You must submit your IDSE report to the State according to the schedule in § 141.600(c).

(a) If you complied by meeting the provisions of §§ 141.602 or 141.603(a), your IDSE report must include the elements required in paragraphs (a)(1) through (a)(3) of this section.

(1) Your report must include all TTHM and HAA5 analytical results from subpart L compliance monitoring conducted during the period of the IDSE presented in a tabular or spreadsheet format acceptable to the State. Your report must also include a schematic of your distribution system, with results, location, and date of all IDSE monitoring, system-specific study monitoring, and subpart L compliance samples noted.

(2) If you conducted IDSE monitoring under § 141.602, your report must include all IDSE TTHM and HAA5 analytical results presented in a tabular or spreadsheet format acceptable to the State. Your report must also include all additional data you relied on to justify IDSE monitoring site selection, plus your original monitoring plan developed under § 141.602(c) and an explanation of any deviations from that plan.

(3) If you used the system-specific study alternative in § 141.603(a), your report must include the basis (studies, reports, data, analytical results, modeling) by which you determined that the recommended subpart V monitoring sites representing high TTHM and HAA5 levels are comparable or superior to those that would otherwise have been identified by IDSE

monitoring under § 141.602. Your report must also include an analysis that demonstrates that your system-specific study characterized expected TTHM and HAA5 levels throughout your entire distribution system.

(b) If you meet the 40/30 certification criteria in § 141.603(b), your IDSE report must include all TTHM and HAA5 analytical results from compliance monitoring used to qualify for the 40/30 certification and a schematic of your distribution system (with results, location, and date of all compliance samples noted). You must also include results of those compliance samples taken after the period used to qualify for the 40/30 certification for State review.

(c) Your IDSE report must include your recommendations and justification for where and during what month(s) TTHM and HAA5 monitoring for Subpart V should be conducted. You must base your recommendations on the criteria in § 141.605. Your IDSE report must also include the population served; system type (subpart H or ground water); whether your system is a consecutive system; and, if you conducted plant-based monitoring, the number of treatment plants and consecutive system entry points.

(d) *Recordkeeping.* You must retain a complete copy of your IDSE report submitted under § 141.604 for 10 years after the date that you submitted your IDSE report. If the State modifies the monitoring requirements that you recommended in your IDSE report or if the State approves alternative monitoring sites, you must keep a copy of the State's notification on file for 10 years after the date of the State's notification. You must make the IDSE report and any State notification available for review by the State or the public.

§ 141.605 Subpart V monitoring location recommendations to the State.

(a) Subpart H systems serving at least 10,000 people. If you are a system required to take four dual sample sets per treatment plant per quarter under routine monitoring under § 141.621, you must base your recommendations on the locations in the distribution system where you expect to find the highest TTHM and HAA5 LRAAs. In determining the highest LRAA, you must evaluate both subpart L compliance data and IDSE data. For each plant, you must recommend locations with:

(1) The two highest TTHM locational running annual averages;

(2) The highest HAA5 locational running annual average; and

(3) An existing subpart L compliance monitoring location identified in the § 141.132(f) monitoring plan that is the location of either the highest TTHM or HAA5 LRAA among the three compliance monitoring locations representative of average residence time (by calculating an LRAA for each compliance monitoring location using the compliance monitoring results collected during the period of the IDSE).

(4) You may recommend locations other than those in paragraphs (a)(1) through (3) of this section if you include a rationale for selecting other locations. If the State approves, you must monitor at these locations to determine compliance under subpart V.

(5) If any of the criteria in this paragraph (a) of this section would cause fewer than four locations per treatment plant to be recommended, you must identify an additional location(s) with the next highest HAA5 LRAA.

(b) *All groundwater systems and subpart H systems serving fewer than 10,000 people.* If you are a system required to take two dual sample sets per treatment plant per quarter or per year or one TTHM and one HAA5 sample per plant per year for routine monitoring under § 141.621, you must select the locations with the highest TTHM locational running annual average and highest HAA5 locational running annual average, unless you include a rationale for selecting other locations. If the State approves, you must monitor at these other locations to determine compliance under subpart V. If any of the criteria in this paragraph would cause only one location per treatment plant to be recommended, you must identify an additional location with the next highest HAA5 LRAA or request that you be allowed to monitor only at that location.

(c) *Systems that qualify for the 40/30 certification.* If you use the 40/30 certification in § 141.603(b), you may use either subpart L compliance monitoring locations or you may identify monitoring locations for Subpart V that are different from those for subpart L. You must include a rationale for changing existing subpart L locations, choosing locations with a long residence time and a detectable residual. If you choose monitoring locations other than those in subpart L as subpart V compliance monitoring locations, you must retain the subpart L locations with the highest TTHM and HAA5 LRAAs. If any of the criteria in this paragraph would cause only one location per treatment plant to be recommended, you must identify an additional location with the next highest HAA5 LRAA or request that you be allowed to monitor only at that location. If you are required to monitor at more locations under subpart V of this part than under subpart L of this part, you must identify additional locations with a long residence time and a detectable residual.

(d) *Consecutive systems that buy some, but not all, of their finished water.* Your recommendations must comply with §§ 141.601(d) and 141.605 (a) through (c).

(e) *Consecutive systems that buy all their finished water.*

(1) You must select the number of monitoring locations specified in the following tables.

SUBPART V.—SAMPLE FREQUENCY FOR TTHM/HAA5 (AS DUAL SAMPLE SETS) FOR CONSECUTIVE SYSTEMS THAT BUY ALL THEIR WATER

Population	Number of samples
Subpart H Consecutive Systems That Buy All Their Water	
<500	1 TTHM and 1 HAA5 sample per year at different locations and time if the highest TTHM and HAA5 occurred at different locations and/or time or 1 dual sample set per year if the highest TTHM and HAA5 occurred at the same location and time of year, taken during the peak historical month for DBP concentrations or (if unknown) month of warmest water temperature.
500 to 4,999	1 TTHM and 1 HAA5 sample per quarter at different locations if the highest TTHM and HAA5 occurred at different locations or 1 dual sample set per quarter if the highest TTHM and HAA5 occurred at the same location.
5,000 to 9,999	2 dual sample sets per quarter.
10,000 to 24,999	4 dual sample sets per quarter.
25,000 to 49,999	6 dual sample sets per quarter.
50,000 to 99,999	8 dual sample sets per quarter.

SUBPART V.—SAMPLE FREQUENCY FOR TTHM/HAA5 (AS DUAL SAMPLE SETS) FOR CONSECUTIVE SYSTEMS THAT BUY ALL THEIR WATER—Continued

Population	Number of samples
100,000 to 499,999	12 dual sample sets per quarter.
500,000 to 1,499,999	16 dual sample sets per quarter.
1,500,000 to 4,999,999	20 dual sample sets per quarter.
>=5,000,000	24 dual sample sets per quarter.
Ground Water Consecutive Systems That Buy All Their Water	
<500	1 TTHM and 1 HAA5 sample per year at different locations and time if the highest TTHM and HAA5 occurred at different locations and/or time or 1 dual sample set per year if the highest TTHM and HAA5 occurred at the same location and time of year, taken during the peak historical month for DBP concentrations, or, if unknown, during month of warmest water temperature.
500 to 9,999	2 dual sample sets per year. Must be taken during the peak historical month for DBP concentrations.
10,000 to 99,999	4 dual sample sets per quarter.
100,000 to 499,999	6 dual sample sets per quarter.
≥500,000	8 dual sample sets per quarter.

(2) You must select Subpart V monitoring locations based on subpart L compliance monitoring results collected during the period of the IDSE and IDSE monitoring results. You must follow the protocol in paragraphs (e)(2)(i) through (iv) of this section, unless you provide a rationale for recommending different locations. If required to monitor at more than four locations, you must repeat the protocol as necessary, alternating between sites with the highest HAA5 LRAA and the highest TTHM LRAA not previously selected as a subpart V monitoring location for choosing locations under paragraph (e)(2)(iii) of this section.

(i) Location with the highest TTHM LRAA not previously selected as a subpart V monitoring location.

(ii) Location with the highest HAA5 LRAA not previously selected as a subpart V monitoring location.

(iii) Existing subpart L average residence time compliance monitoring location.

(iv) Location with the highest TTHM LRAA not previously selected as a subpart V monitoring location.

(3) You may recommend locations other than those in paragraph (e)(2) of this section if you include a rationale for selecting other locations. If the State approves, you must monitor at these locations to determine compliance under subpart V.

(4) If you used the 40/30 certification in § 141.603(b) and do not have sufficient subpart L monitoring locations to identify the required number of Subpart V compliance monitoring locations, you must identify additional locations by selecting a site representative of maximum residence time and then a site representative of average residence time and repeating until the required number of compliance monitoring locations have been identified.

(f) You must schedule samples during the peak historical month for TTHM and HAA5 concentration, unless the State approves another month. Once you have identified the peak historical month, and if you are required to conduct routine monitoring at least quarterly, you must schedule subpart V compliance monitoring at a regular frequency of approximately every 90 days or fewer.

18. Part 141 is amended by adding new subpart V to read as follows:

Subpart V—Stage 2B Disinfection Byproducts Requirements

Sec.

141.620 General requirements.
141.621 Routine monitoring.
141.622 Subpart V monitoring plan.
141.623 Reduced monitoring.
141.624 Additional requirements for consecutive systems.
141.625 Conditions requiring increased monitoring.
141.626 Significant excursions.
141.627 Requirements for remaining on reduced TTHM and HAA5 monitoring based on subpart L results.
141.628 Requirements for remaining on increased TTHM and HAA5 monitoring based on subpart L results.
141.629 [Reserved]
141.630 Reporting and recordkeeping requirements.

Subpart V—Stage 2B Disinfection Byproducts Requirements

§ 141.620 General requirements.

(a) The requirements of subpart V constitute national primary drinking water regulations. These regulations establish requirements for control of certain disinfection byproducts that supercede some requirements in subpart L and that are *in addition* to other requirements that are currently required under subpart L of this part. The regulations in this subpart establish monitoring and other requirements for achieving compliance with maximum contaminant levels for total trihalomethanes (TTHM) and haloacetic acids (five)(HAA5).

(b) *Applicability.* You are subject to these requirements if your system is a community water system or nontransient noncommunity water system that adds a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light.

(c) *Schedule.* You must comply with the requirements in this subpart on the schedule in the following table, based on your system type.

If you are this type of system	You must comply with subpart V by:[1 2 3]
(1) Subpart H serving ≥10,000	[date 72 mos following publication of final rule].
(2) Subpart H serving <10,000	[date 90 mos following publication of final rule] if no *Cryptosporidium* monitoring is required under § 141.706(c) OR [date 102 mos following publication of final rule] if *Cryptosporidium* monitoring is required under § 141.706(c).
(3) Ground water serving ≥10,000	[date 72 mos following publication of final rule].
(4) Ground water serving <10,000	[date 90 mos following publication of final rule].

If you are this type of system	You must comply with subpart V by: [1] [2] [3]
(5) Consecutive system	—at the same time as the system with the earliest compliance date in the combined distribution system.

[1] The State may grant up to an additional 24 months for compliance if you require capital improvements.

[2] If you are required to conduct quarterly monitoring, you must begin monitoring in the first full calendar quarter that follows the compliance date in this table. If you are required to conduct monitoring at a frequency that is less than quarterly, you must begin monitoring in the calendar month recommended in the IDSE report prepared under § 141.604 no later than 12 months after the compliance date in this table. If you are not required to submit an IDSE report, you must begin monitoring during the calendar month identified in the monitoring plan developed under § 141.622 no later than 12 months after the compliance date.

[3] If you are required to conduct quarterly monitoring, you must make compliance calculations at the end of the fourth calendar quarter that follows the compliance date and at the end of each subsequent quarter (or earlier if the LRAA calculated based on fewer than four quarters of data would cause the MCL to be exceeded regardless of the monitoring results of subsequent quarters). If you are required to conduct monitoring at a frequency that is less than quarterly, you must make compliance calculations beginning with the first compliance sample taken after the compliance date.

(d) *Monitoring and compliance.* You must monitor at sampling locations identified in your monitoring plan developed under § 141.622. To determine compliance with subpart V MCLs, you must calculate locational running annual averages for TTHM and HAA5 using monitoring results collected under this subpart. If you fail to complete four consecutive quarters of monitoring, you must calculate compliance with the MCL based on an average of the available data from the most recent four quarters.

(e) *Violations.* You must comply with specific monitoring and reporting requirements. Failure to monitor in accordance with the monitoring plan required under § 141.622 is a monitoring violation. Failure to monitor will also be treated as a monitoring violation for the entire period covered by a locational running annual average compliance calculation for the subpart V MCLs in § 141.64(b)(3).

(f) *Additional provisions.*

(1) You may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with State approval in accordance with criteria developed under § 142.16(h)(5) of this chapter. Approvals made under §§ 141.132(a)(2) and 141.601(d) remain in effect unless withdrawn by the State.

(2) *Consecutive systems.* For the purposes of this subpart, you must determine whether you buy all or some of your water based on your categorization for the IDSE under subpart U, unless otherwise directed by the State. If you were not categorized under subpart U, you must determine whether you buy all or some of your water based on your categorization during 2005, unless otherwise directed by the State.

(3) For the purposes of determining monitoring requirements of this subpart, each consecutive system entry point from a wholesale system to a consecutive system that buys some, but not all, of its finished water is considered a treatment plant for that consecutive system.

(i) You may request that the State allow multiple consecutive system entry points from a single wholesale system to a single consecutive system to be considered one treatment plant.

(ii) In the request to the State for approval of multiple consecutive system entry points to be considered one treatment plant, you must demonstrate that factors such as relative locations of entry points, detention times, sources, and the presence of treatment (such as corrosion control or booster disinfection) will have a minimal differential effect on TTHM and HAA5 formation associated with individual entry points.

§ 141.621 Routine monitoring.

(a) You must monitor at the locations and frequencies listed in the following table.

If you are this type of system	Then you must monitor	At these locations for each treatment plant [1]
(1) Subpart H serving ≥10,000.	four dual sample sets per quarter per treatment plant, taken approximately every 90 days. One quarterly set must be taken during the peak historical month for DBP concentrations [2].	—locations recommended to the State in the IDSE report submitted under subpart U.
(2) Subpart H serving 500–9,999.	two dual sample sets per quarter per treatment plant, taken approximately every 90 days. One quarterly set must be taken during the peak historical month for DBP concentrations [2].	—locations recommended to the State in the IDSE report submitted under subpart U.[3]
(3) Subpart H serving <500	one TTHM and one HAA5 sample per year per treatment plant, taken during the peak historical month for DBP concentrations.	—locations recommended to the State in the IDSE report submitted under subpart U.[4]
(4) Ground water serving ≥10,000.	two dual sample sets per quarter per treatment plant, taken approximately every 90 days. One quarterly set must be taken during the peak historical month for DBP concentrations [2].	—locations recommended to the State in the IDSE report submitted under subpart U.[3]
(5) Ground water serving 500–9,999.	two dual sample sets per year per treatment plant, taken during the peak historical month for DBP concentrations [2].	—locations recommended to the State in the IDSE report submitted under subpart U.[3]
(6) Ground water serving <500.	one TTHM and one HAA5 sample per year per treatment plant, taken during the peak historical month for DBP concentrations.	—locations recommended to the State in the IDSE report submitted under subpart U.[4]
(7) Consecutive system that buys some, but not all, of its finished water.	based on your own population and source water, except that consecutive systems that receive water from a subpart H system must monitor as a subpart H system.	—locations recommended to the State in the IDSE report submitted under subpart U.

If you are this type of system	Then you must monitor	At these locations for each treatment plant [1]
(8) Consecutive system that buys all its finished water.	as specified in § 141.605(e)	—locations recommended to the State in the IDSE report submitted under subpart U.

[1] Unless the State has approved or required other locations or additional locations based on the IDSE report or other information, or you have updated the monitoring plan under § 141.622.
[2] A dual sample set is a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5.
[3] If you have a single location that has both the highest TTHM LRAA and highest HAA5 LRAA, you may take a dual sample set only at that location after approval by the State.
[4] You are required to sample for both TTHM and HAA5 at one location if that location is the highest for both TTHM and HAA5. If different locations have high TTHM and HAA5 LRAAs, you may sample for TTHM only at the high TTHM location and for HAA5 only at the high HAA5 location. If you have received a very small system waiver for IDSE monitoring from the State under § 141.603(c), you must monitor for TTHM and HAA5 as a dual sample set at the subpart L monitoring location (a point representative of maximum residence time) during the month of warmest water temperature.

(b) You must begin monitoring at the locations you have recommended in your IDSE report submitted under § 141.604 following the schedule in § 141.620(c), unless the State requires other locations or additional locations after its review. If you have received a very small system waiver under § 141.603(c), you must monitor at the location(s) identified in your monitoring plan in § 141.132(f), updated as required by § 141.622.

(c) You must use an approved method listed in § 141.131 for TTHM and HAA5 analyses in this subpart. Analyses must be conducted by laboratories that have received certification by EPA or the State as specified in § 141.131.

§ 141.622 Subpart V monitoring plan.

(a) You must develop and implement a monitoring plan to be kept on file for State and public review. You may comply by updating the monitoring plan developed under § 141.132(f) no later than the date identified in § 141.620(c) for subpart V compliance. If you have received a very small system waiver under § 141.603(c), you must comply by updating the monitoring plan developed under § 141.132(f) no later than the date identified in § 141.620(c) for subpart V compliance. The monitoring plan must contain the elements in paragraphs (a)(1) through (a)(5) of this section:

(1) Monitoring locations;

(2) Monitoring dates;

(3) Compliance calculation procedures;

(4) Monitoring plans for any other systems in the combined distribution system if monitoring requirements have been modified based on data from other systems; and

(5) Any permits, contracts, or agreements with third parties (including other PWSs, laboratories, and State agencies) to sample, analyze, report, or perform any other system requirement in this subpart.

(b) The monitoring plan will reflect the recommendations of the IDSE report required under subpart U, along with any State-mandated modifications. The State must approve any monitoring sites for which you are required to provide a rationale in your IDSE report by § 141.605(a)(4).

(c) If you are a subpart H system serving more than 3,300 people, you must submit a copy of your monitoring plan to the State prior to the date you are required to comply with the monitoring plan.

(d) You may modify your monitoring plan to reflect changes in treatment, distribution system operations and layout (including new service areas), or other factors that may affect TTHM or HAA5 formation. If you change monitoring locations, you must replace locations with the lowest LRAA and notify the State how new sites were selected as part of the next report due under § 141.630. The State may also require modifications in your monitoring plan.

§ 141.623 Reduced monitoring.

(a) *Systems other than consecutive systems that buy all their water.* You may reduce monitoring by meeting the criteria in the table in this paragraph at all treatment plants in the system. You may only use data collected under the provisions of this subpart or subpart L of this part to qualify for reduced monitoring.

If you are this type of system	Then you may reduce monitoring if you have monitoring results under § 141.621 and	To reduce monitoring per plant at these locations/frequency	
		TTHM	HAA5
(1) Subpart H serving ≥10,000.	—the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 for HAA5 at ALL monitoring locations, AND —the source water annual average TOC level, before any treatment, is ≤4.0 mg/L at each subpart H treatment plant [1].	—monitor once per quarter by taking a dual sample set at the location with the highest TTHM LRAA or single measurement.	—monitor once per quarter by taking a dual sample set at the location with the highest HAA5 LRAA or single measurement.
(2) Subpart H serving 500–9,999.	—the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 for HAA5 at ALL monitoring locations, AND —the source water annual average TOC level, before any treatment, is ≤4.0 mg/L at each subpart H treatment plant [1].	—monitor once per year by taking a dual sample set at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred [2].	—monitor once per year by taking a dual sample set at the location with the highest HHA5 single measurement during the quarter that the highest single HHA5 measurement occurred.[2]
(3) Subpart H serving <500.	—monitoring may not be reduced to fewer than one TTHM sample and one HAA5 sample per year.	not applicable	not applicable.
(4) Ground water serving ≥10,000.	—the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 for HAA5 at ALL monitoring locations.	—monitor once per year by taking a dual sample set at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred [2].	—monitor once per year by taking a dual sample set at the location with the highest HHA5 single measurement during the quarter that the highest single HHA5 measurement occurred.[2]

If you are this type of system	Then you may reduce monitoring if you have monitoring results under §141.621 and	To reduce monitoring per plant at these locations/frequency	
		TTHM	HAA5
(5) Ground water serving 500–9,999.	—the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 for HAA5 at ALL monitoring locations.	—monitor once every third year by taking a dual sample set at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred [2].	—monitor once every third year by taking a dual sample set at the location with the highest HHA5 single measurement during the quarter that the highest single HHA5 measurement occurred.[2]
(6) Ground water serving <500.	—the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 for HAA5 at ALL monitoring locations.	—monitor once every third year for TTHM at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred [2].	—monitor once every third year for HAA5 at the location with the highest HAA5 single measurement during the quarter that the highest single HAA5 measurement occurred.[2]
(7) Consecutive system that buys some, but not all, of its finished water [3].	—the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 for HAA5 at ALL monitoring locations.	—monitor at the location(s) and frequency associated with a non-consecutive system with the same population and source water type.	—monitor at the location(s) and frequency associated with a non-consecutive system with the same population and source water type.[2]

[1] TOC monitoring must comply with the provisions of either §141.132(d) or §141.132(e).
[2] If your location for reduced monitoring for TTHM and HAA5 is the same location and if your quarter for the highest TTHM and HAA5 single measurement is the same, you may take one dual sample set at that location during that quarter.
[3] Consecutive systems that buy some, but not all, of their finished water may reduce monitoring based on their own population and their wholesale system(s)'s source water type to the frequency and location(s) required in this section, unless the consecutive system treats surface water or ground water under the direct influence of surface water. If the consecutive system treats surface water or ground water under the direct influence of surface water, it must base reduced monitoring on its population and classification as a subpart H system.

(b) *Consecutive systems that buy all their water.* You may reduce monitoring to the level specified in the table in this paragraph if the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 mg/L for HAA5 at all monitoring locations. You may only use data collected under the provisions of this subpart or subpart L of this part to qualify for reduced monitoring.

REDUCED MONITORING FREQUENCY FOR CONSECUTIVE SYSTEMS THAT BUY ALL THEIR WATER.

Population	Reduced monitoring frequency and location
Subpart H systems	
<500	Monitoring may not be reduced.
500 to 4,999	1 TTHM and 1 HAA5 sample per year at different locations or during different quarters if the highest TTHM and HAA5 measurements occurred at different locations or different quarters or 1 dual sample set per year if the highest TTHM and HAA5 measurements occurred at the same location and quarter.
5,000 to 9,999	2 dual sample sets per year; one at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred, one at the location with the highest HAA5 single measurement during the quarter that the highest single HAA5 measurement occurred.
10,000 to 24,999	2 dual sample sets per quarter at the locations with the highest TTHM and highest HAA5 LRAAs.
25,000 to 49,999	2 dual sample sets per quarter at the locations with the highest TTHM and highest HAA5 LRAAs.
50,000 to 99,000	4 dual sample sets per quarter—at the locations with the two highest TTHM and two highest HAA5 LRAAs.
100,000 to 499,999	4 dual sample sets per quarter—at the locations with the two highest TTHM and two highest HAA5 LRAAs.
500,000 to 1,499,999	6 dual sample sets per quarter—at the locations with the three highest TTHM and three highest HAA5 LRAAs.
1,500,000 to 4,999,999	6 dual sample sets per quarter—at the locations with the three highest TTHM and three highest HAA5 LRAAs.
>=5,000,000	8 dual sample sets per quarter at the locations with the four highest TTHM and four highest HAA5 LRAAs.
Ground water systems	
<500	1 TTHM and 1 HAA5 sample every third year at different locations and time if the highest TTHM and HAA5 measurements occurred at different locations and/or time or 1 dual sample set every third year if the highest TTHM and HAA5 measurements occurred at the same location and time of year.
500 to 9,999	1 TTHM and 1 HAA5 sample every year at different locations and time if the highest TTHM and HAA5 measurements occurred at different locations and/or time or 1 dual sample set every year if the highest TTHM and HAA5 measurements occurred at the same location and time of year.
10,000 to 99,000	2 dual sample sets per year; one at the location with the highest TTHM single measurement during the quarter that the highest single TTHM measurement occurred and one at the location with the highest HAA5 single measurement during the quarter that the highest single HAA5 measurement occurred.
100,000 to 499,999	2 dual sample sets per quarter; at the locations with the highest TTHM and highest HAA5 LRAAs.
≥500,000	4 dual sample sets per quarter; at the locations with the two highest TTHM and two highest HAA5 LRAAs.

(c) You may remain on reduced monitoring as long as the TTHM LRAA ≤0.040 mg/L and the HAA5 LRAA ≤0.030 mg/L at each monitoring location (for systems with quarterly monitoring) or each TTHM sample ≤0.060 mg/L and each HAA5 sample ≤0.045 mg/L (for systems with annual or less frequent monitoring). In addition, the source water annual average TOC level, before any treatment, must be ≤4.0 mg/L at each treatment plant treating surface water or ground water under the direct influence of surface water, based on monitoring conducted under either §§ 141.132(d) or 141.132(e). If the LRAA at any location exceeds either 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 or if the annual (or less frequent) sample at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5, or if the source water annual average TOC level, before any treatment, >4.0 mg/L at any treatment plant treating surface water or ground water under the direct influence of surface water, the system must resume routine monitoring

under § 141.621 for all treatment plants or begin increased monitoring for all treatment plants if § 141.625 applies.

(d) The State may return your system to routine monitoring at the State's discretion.

§ 141.624 Additional requirements for consecutive systems.

If you are a consecutive system that does not add a disinfectant but delivers water that has been disinfected with other than ultraviolet light, you must comply with monitoring requirements for chlorine and chloramines in § 141.132(c)(1) and the compliance requirements in § 141.133(c)(1) beginning [date three years after publication of final rule] and report monitoring results under § 141.134(c), unless required earlier by the State.

§ 141.625 Conditions requiring increased monitoring.

(a) If you are required to monitor at a particular location yearly or less frequently than yearly under §§ 141.621 or 141.623, you must increase monitoring to dual sample sets once per quarter (taken approximately every 90 days) at all locations if either the annual (or less frequent) TTHM sample >0.080 mg/L or the annual (or less frequent) HAA5 sample >0.060 mg/L at any location.

(b) You are not in violation of the MCL until the LRAA calculated based on four consecutive quarters of monitoring (or the LRAA calculated based on fewer than four quarters of data if the MCL would be exceeded regardless of the monitoring results of subsequent quarters) exceeds the subpart V MCLs in § 141.64(b)(3). You are in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if you fail to monitor.

(c) You may return to routine monitoring once you have conducted increased monitoring for at least four consecutive quarters and the LRAA for every location is ≤0.060 mg/L for TTHM and ≤0.045 mg/L for HAA5.

§ 141.626 Significant excursions.

If a significant excursion occurs, you must conduct a significant excursion evaluation and prepare a written report of the evaluation no later than 90 days after being notified of the analytical result that shows the significant excursion. You must discuss the evaluation with the State no later than the next sanitary survey for your system. Your evaluation must include an examination of distribution system operational practices that may contribute to TTHM and HAA5 formation (such as flushing programs and storage tank operations and excess capacity) and how these practices may be modified to reduce TTHM and HAA5 levels.

§ 141.627 Requirements for remaining on reduced TTHM and HAA5 monitoring based on subpart L results.

You may remain on reduced monitoring after the dates identified in § 141.620(c) for compliance with this subpart only if you qualify for a 40/30 certification under § 141.603(b) or have received a very small system waiver under § 141.603(c), plus you meet the reduced monitoring criteria in § 141.623(c), and you do not change or add monitoring locations from those used for compliance monitoring under subpart L. If your monitoring locations under this subpart differ from your monitoring locations under subpart L, you may not remain on reduced monitoring after the dates identified in § 141.620(c) for compliance with this subpart.

§ 141.628 Requirements for remaining on increased TTHM and HAA5 monitoring based on subpart L results.

If you were on increased monitoring under subpart L, you must remain on increased monitoring until you qualify for a return to routine monitoring under § 141.625(c). You must conduct increased monitoring under § 141.625 at the monitoring locations in the monitoring plan developed under § 141.622 beginning at the date identified in § 141.620(c) for compliance with this subpart and remain on increased monitoring until you qualify for a return to routine monitoring under § 141.625(c).

§ 141.629 [Reserved]

§ 141.630 Reporting and recordkeeping requirements.

(a) *Reporting.* (1) You must report the following information for each monitoring location to the State within 10 days of the end of any quarter in which monitoring is required:

(i) Number of samples taken during the last quarter.

(ii) Date and results of each sample taken during the last quarter.

(iii) Arithmetic average of quarterly results for the last four quarters (LRAAs).

(iv) Whether the MCL was violated.

(2) If you are a subpart H system seeking to qualify for or remain on reduced TTHM/HAA5 monitoring, you must report the following source water TOC information for each treatment plant that treats surface water or ground water under the direct influence of surface water to the State within 10 days of the end of any quarter in which monitoring is required:

(i) The number of source water TOC samples taken each month during last quarter.

(ii) The date and result of each sample taken during last quarter.

(iii) The quarterly average of monthly samples taken during last quarter.

(iv) The running annual average (RAA) of quarterly averages from the past four quarters.

(v) Whether the RAA exceeded 4.0 mg/L.

(b) *Recordkeeping.* You must retain any subpart V monitoring plans and your subpart V monitoring results as required by § 141.33.

PART 142— NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 142.14 is amended by adding paragraph (a)(8) to read as follows:

§ 142.14 Records kept by States.

(a) * * *

(8) Any decisions made pursuant to the provisions of 40 CFR part 141, subparts U and V of this chapter.

(i) Those systems for which the State has determined that the 40 CFR part 141, subpart L approved monitoring site is representative of the highest TTHM and HAA5 and therefore have been granted a very small system waiver under § 141.603(c) of this chapter. The State must provide a copy of the decision to the system. A copy of the decision must be kept until reversed or revised.

(ii) System IDSE reports, plus any modifications required by the State. Reports must be kept until reversed or revised in their entirety.

* * * * *

3. Section 142.16 is amended by adding paragraph (m) to read as follows:

§ 142.16 Special primacy conditions.

* * * * *

(m) *Requirements for States to adopt 40 CFR part 141, subparts U and V.* In addition to the general primacy requirements elsewhere in this part, including the requirements that State regulations be at least as stringent as federal requirements, an application for approval of a State program revision that adopts 40 CFR part 141, subparts U

and V, must contain a description of how the State will accomplish the following:

(1) For PWSs serving fewer than 500 people, a very small system waiver procedure for subpart U IDSE requirements that will apply to all systems that serve fewer than 500 people without the State making a system-by-system waiver determination, if the State elects to use such an authority.

(2) A procedure for evaluating system-specific studies under § 141.603(a) of this chapter, if system-specific studies are conducted in the State.

(3) A procedure for determining that multiple consecutive system entry points from a single wholesale system to a single consecutive system should be treated as a single treatment plant for monitoring purposes.

(4) A procedure for addressing consecutive systems outside the provisions of § 141.29 of this chapter or part 141 subparts U and V of this chapter, if the State elects to use such an authority.

(5) A procedure for systems to identify significant excursions.

PART 143—NATIONAL SECONDARY DRINKING WATER REGULATIONS

1. The authority citation for part 143 continues to read as follows:

Authority: 42 U.S.C. 300f *et seq.*

2. In § 143.4, the table in paragraph (b) is amended by revising entries 2 and 9 and footnotes 3 and 4, and by adding footnote 6 to read as follows:

§ 143.4 Monitoring.

* * * * *

(b) * * *

Contaminant	EPA	ASTM [3]	SM [4] 18th and 19th ed.	SM [4] 20th ed.	Other
* *		*	* *	*	*
2. Chloride	300.0 [1]	D4327–97	4110 B	4110 B.	
	300.1 [6]			.	
			4500–Cl^- D	4500–Cl^- D	
		D512–89B	4500–Cl^- B	4500–Cl^- B	
* *		*	* *	*	*
9. Sulfate	300.0 [1]	D4327–97	4110B	4110B.	
	300.1 [6]				
	375.2 [1]		4500–SO_4^{2-} F	4500–SO_4^{2-} F.	
			4500–SO_4^{2-} C, D	4500–SO_4^{2-} C, D.	
		D516–90	4500–SO_4^{2-} E	4500–SO_4^{2-} E.	
* *		*	* *	*	*

* * * * *

[1] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R–93–100, August 1993. Available at NTIS, PB94–120821.

* * * * *

[3] *Annual Book of ASTM Standards,* 1994, 1996, or 1999, Vols. 11.01 and 11.02, ASTM International; any year containing the cited version of the method may be used. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4] *Standard Methods for the Examination of Water and Wastewater,* 18th edition (1992), 19th edition (1995), or 20th edition (1998). American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005. The cited methods published in any of these three editions may be used, except that the versions of 3111 B, 3111 D, and 3113 B in the 20th edition may not be used.

* * * * *

[6] "Methods for the Determination of Organic and Inorganic Compounds in Drinking Water", Vol. 1, EPA 815-R–00–014, August 2000. Available at NTIS, PB2000–106981.

[FR Doc. 03–18149 Filed 8–15–03; 8:45 am]

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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.

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Emergency Supplemental Appropriations for Disaster Relief Act, 2003 (Aug. 8, 2003; 117 Stat. 885)

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 should be retained.

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