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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 82

[Docket No. 02-117-10]

#### Exotic Newcastle Disease; Removal of Areas From Quarantine

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the exotic Newcastle disease regulations by removing portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, from the list of quarantined areas. This action removes restrictions on the movement of birds, poultry, and certain other articles from those areas. With this action, there are no longer any areas in the United States that are quarantined because of exotic Newcastle disease.

**DATES:** This interim rule was effective September 16, 2003. We will consider all comments that we receive on or before November 18, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-117-10, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-117-10. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02-117-10" on the subject line.

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

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Aida Boghossian, Senior Staff Veterinarian, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737-1231; (301) 734-8073.

#### SUPPLEMENTARY INFORMATION:

##### Background

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The regulations in "Subpart A—Exotic Newcastle Disease (END)" (9 CFR 82.1 through 82.16, referred to below as the regulations) were established to prevent the spread of END in the United States in the event of an outbreak. In § 82.3, paragraph (a) provides that any area where birds or poultry infected with END are located will be designated as a quarantined area, and that a quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

Prior to the effective date of this interim rule, portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, were designated as quarantined areas in § 82.3(c) of the regulations. As a result, the interstate movement from those

quarantined areas of birds, poultry, products, and materials that could spread END was prohibited or restricted. Further, because the Secretary of Agriculture declared an extraordinary emergency because of END in California, the intrastate movement from the quarantined areas of birds, poultry, products, and materials that could spread END was prohibited or restricted, as provided by the regulations in § 82.16.

##### Previous Quarantine Actions

On October 1, 2002, END was confirmed in the State of California. The disease was confirmed in backyard poultry, which are raised on private premises for hobby, exhibition, and personal consumption. Over the course of the following months, END was confirmed in backyard and commercial poultry on premises elsewhere in California and in backyard poultry in Arizona, Nevada, and Texas. Consequently, in a series of six interim rules published in the **Federal Register** between November 2002 and May 2003, we amended the regulations in § 82.3(c) by designating specific portions of each of those States as quarantined areas. As of May 2003, all or portions of three counties in Arizona, nine counties in California, two counties in Nevada, three counties in New Mexico, and two counties in Texas were designated as quarantined areas in § 82.3(c). As provided for by the regulations in § 82.3(a), these quarantined areas encompassed each area where poultry infected with END were located and a surrounding geographical area deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

##### Previous Reductions in Quarantined Areas

Beginning in May 2003, we began releasing areas from quarantine after Animal and Plant Health Inspection Service (APHIS) epidemiologists determined, based on the results of extensive investigations conducted in Arizona, California, Nevada, New Mexico, and Texas, that it was possible to reduce the size of the quarantined areas in those States. Specifically:

- In an interim rule effective May 14, 2003, and published in the **Federal Register** on May 19, 2003 (68 FR 26986-26988, Docket No. 02-117-6), we



reduced the size of the quarantined areas in Nevada and Arizona, leaving only portions of La Paz County, AZ, and Clark County, NV, as quarantined areas in those States.

- In an interim rule effective June 5, 2003, and published in the **Federal Register** on June 11, 2003 (68 FR 34779–34781, Docket No. 02–117–8), we reduced the size of the quarantined areas in Texas and eliminated the quarantined areas in New Mexico, leaving only a portion of El Paso County, TX, as a quarantined area in that State.

- In an interim rule effective July 30, 2003, and published in the **Federal Register** on August 4, 2003 (68 FR 45741–45745, Docket No. 02–117–9), we eliminated the last remaining quarantined areas in Arizona, Nevada, and Texas and reduced the size of the quarantined areas in California, leaving only portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, as quarantined areas in that State.

*Additional Reductions in Quarantined Areas*

In this interim rule, we are eliminating the last remaining quarantined areas in California. The portion of Orange County that we are removing from quarantine is an area in which END has not been found, but which was included in the quarantined area due to its proximity to areas in adjoining counties where END-positive premises were found. Our actions with respect to Kern, Los Angeles, Riverside, San Bernardino, and Ventura Counties—areas that had, at one time, contained infected premises—are based upon our determination that the areas in those counties meet the criteria contained in § 82.14 of the regulations for release from quarantine. Our basis for these actions is discussed in greater detail below.

*Areas in Which END Has Not Been Found*

No END-positive premises were detected in Orange County, CA. Surveillance and testing of poultry premises was carried out in this area and resulted in no END-positive premises being detected.

*Noncommercial premises.* An inventory of at-risk noncommercial premises was developed for the areas targeted for quarantine release. In addition to information previously collected through eradication activities, sources of information included local animal control authorities, local law enforcement, county agricultural

officials, extension personnel, and animal welfare workers.

Surveillance efforts were concentrated in areas that had at-risk premises. An at-risk premises was defined as a premises inhabited by poultry or ratites or that contained an aviary. Within this population, premises considered highest risk were targeted for sampling. High risk premises were defined as any premises with any galliform birds (chickens, turkeys, pheasant, quail, partridge, guinea fowl, pea fowl, etc.), columbiform birds (pigeons, doves), or anseriform birds (ducks, geese, swans). Other factors considered indicative of high risk were multiple owners on the same premises, premises with sick or dead birds, history of movement of birds, and possible contact with an infected premises.

The sampling period for the small portion of Orange County, CA, that had remained under quarantine was from July 20 through August 20, 2003. A total of 5 at-risk premises were sampled from a population of 48 at-risk premises in the area. None of the samples yielded a positive result.

*Commercial premises.* No commercial poultry premises were located in the Orange County, CA, quarantined area.

As noted previously, the regulations in § 82.3(a) provide that any area where birds or poultry infected with END are located will be designated as a quarantined area, and that a quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

APHIS epidemiologists have evaluated the results of the investigations conducted in Orange County, CA, and have determined that we may now eliminate the quarantined area in that county. This determination is based on, among other things, the demonstrated absence of birds or poultry infected with or exposed to END in that area. The regulations in § 82.14 provide requirements that must be met before an area may be removed from quarantine, but those requirements relate to measures taken with respect to END- infected or -exposed birds and poultry, their eggs and manure, and articles and premises with which such birds or their manure or litter have come in contact. As there were no END-infected or -exposed birds or poultry in the portion of Orange County, CA, that has been under quarantine for END, there are no requirements under § 82.14 that need to be met before that area can be removed from quarantine.

*Areas That Contained Infected Premises*

An area where END-positive premises have been detected is known as an “infected area.” The infected area in California had a total of 920 END-positive premises, 900 of which were located in Kern, Los Angeles, Riverside, San Bernardino, and Ventura Counties. (The remaining 20 END-positive premises had been located in San Diego County, CA, which we released from quarantine in our August 4, 2003, interim rule.) Fourteen of those 900 premises were commercial poultry premises. All birds on all infected premises, and any premises exposed to those infected premises, were depopulated. The date of depopulation on the final END-positive premises in each county still under quarantine in the infected area of California was:

- Ventura County: April 9, 2003;
- Kern County: May 12, 2003;
- Riverside County: May 20, 2003;
- San Bernardino County: May 22, 2003; and
- Los Angeles County: June 1, 2003.

Intensive surveillance and testing of both noncommercial and commercial poultry premises was carried out in the infected area and resulted in no additional END positive premises being detected.

*Noncommercial premises.* An inventory of at-risk noncommercial premises was developed for the infected area. Surveillance efforts were then concentrated in portions of the infected area that had at-risk premises. An at-risk premises was defined as a premises inhabited by poultry, ratites, or an aviary. Within this population, premises considered highest risk were targeted for sampling.

In the infected area of Kern, Los Angeles, Riverside, San Bernardino, and Ventura Counties, CA, all of the sampling was conducted during the period from June 15 through August 20, 2003. The majority of the sampling was conducted during the period from July 5 to August 9, 2003. Overall, a total of 4,544 at-risk premises were sampled from a population of 22,745 at-risk premises in the infected area. Over 57,500 birds were sampled and tested for the END virus. None of the samples yielded a positive result.

TABLE 1.—AT-RISK NONCOMMERCIAL PREMISES SAMPLED BY COUNTY IN CALIFORNIA

County	Number of premises sampled
Kern .....	56

TABLE 1.—AT-RISK NONCOMMERCIAL PREMISES SAMPLED BY COUNTY IN CALIFORNIA—Continued

County	Number of premises sampled
Los Angeles .....	2,027
Riverside .....	1,229
San Bernardino .....	1,142
Ventura .....	90

*Commercial premises.* Active weekly surveillance of commercial poultry premises in the infected area began as early as December 2002. All but five commercial premises with birds have been under weekly active surveillance for at least 6 weeks and have a documented biosecurity protocol in place. Of the remaining five commercial premises, one (a premises with quail) has been under weekly active surveillance for at least 4 weeks and four (two with ostriches, one with ducks, and one hatchery) are under passive surveillance. All these commercial premises must report any significant increase in death losses or the occurrences of clinical signs consistent with END.

A total of 93 commercial poultry premises are located in the infected area, of which 72 premises had birds present. The 21 other commercial premises are egg processors and did not participate in active surveillance. Fourteen of the 72 premises that had birds present were found to be infected, and 1 premises was found to have been exposed to infected premises; all 15 were depopulated, and 6 other premises were emptied of birds by their owners for other reasons. With 5 of the 15 depopulated premises having been repopulated, there were 56 premises with birds in the infected area. A representative sampling of either live or dead birds from each poultry house on 52 of those 56 premises with birds was performed weekly. The other four commercial premises with birds were under passive surveillance. Sample collection was done by either an accredited veterinarian or authorized company personnel. No END positive premises were found.

We have determined that all applicable requirements of § 82.14 to remove an area from quarantine have been met with respect to the remaining areas in California. Specifically, we have determined the following:

- All birds and poultry exposed to END have been found to be free of END or have been euthanized;
- All birds and poultry infected with END have been euthanized;

- All parts of all birds and poultry that were euthanized or that died from any cause other than slaughter, all eggs produced by birds or poultry infected with or exposed to END, and all manure generated by and litter used by birds or poultry infected with or exposed to END have been buried at least 6 feet deep and covered at the time of burial with soil in a location within the quarantined area that meets all U.S. Environmental Protection Agency (EPA), State, and local requirements for landfills;

- All vehicles with which the birds or poultry infected with or exposed to END or their excrement or litter have had physical contact have been cleaned and disinfected in the manner prescribed in § 82.14(f);

- All cages, coops, containers, troughs, and other equipment used for birds or poultry infected with or exposed to END or their excrement or litter have been reduced to ashes by incineration or have been cleaned and disinfected in the manner prescribed in § 82.14(g); and

- The premises where birds or poultry infected with or exposed to END were located have been cleaned and disinfected in the manner prescribed in § 82.14(h).

#### Conclusion

Based on the information presented above, we are amending § 82.3(c) in this interim rule by removing the remaining portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, from the list of quarantined areas because the continued quarantine of these areas is no longer necessary to contain all birds and poultry infected with or exposed to END. With this action, there are no longer any areas in the United States that are quarantined because of END.

#### Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. We have determined that portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, may now be removed from the list of areas quarantined because of END. Therefore, immediate action is warranted to relieve the prohibitions or restrictions that have applied to the movement of birds, poultry, products, and other materials from those areas. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than

30 days after publication in the **Federal Register**.

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

#### Executive Order 12866 and Regulatory Flexibility Act

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

This rule amends the regulations by removing portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, from the list of quarantined areas. This action needs to be made effective immediately in order to remove restrictions on the movement of birds, poultry, and certain other articles from those areas that are no longer necessary.

This situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

#### Executive Order 12372

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

#### Executive Order 12988

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

#### Paperwork Reduction Act

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

**List of Subjects in 9 CFR Part 82**

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, 9 CFR part 82 is amended as follows:

**PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS**

■ 1. The authority citation for part 82 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 82.3, paragraph (c) is revised to read as follows:

**§ 82.3 Quarantined areas.**

\* \* \* \* \*

(c) The following areas are quarantined because of END: There are no areas in the United States quarantined because of END.

Done in Washington, DC this 16th day of September 2003.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–23953 Filed 9–18–03; 8:45 am]

BILLING CODE 3410–34–P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 25**

[Docket No. NM265, Special Conditions No. 25–247–SC ]

**Special Conditions: Douglas Models DC–8–61, –61F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F 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 Douglas Models DC–8–61, –61F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F airplanes modified by ABX Air, Inc. These airplanes, as modified by ABX Air, Inc., will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of the Innovative Solutions and Support (IS&S) Duplex Reduced Vertical Separation Minimum (RVSM) system which will allow for the removal of the existing altitude alerter, encoding

altimeters, air data computer, and standby altimeter. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems 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 provided by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is September 10, 2003. Comments must be received on or before October 20, 2003.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM265, 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. NM265.

**FOR FURTHER INFORMATION CONTACT:** Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2799; facsimile (425) 227–1149.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

The FAA has determined that notice and opportunity for prior public comment are 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 4:00 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 November 25, 2002, ABX Air Inc. applied for a supplemental type certificate (STC) to modify Douglas Models DC–8–61, –61F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F airplanes. These models are currently approved under Type Certificate 4A25. The modification incorporates the installation of the IS&S Duplex RVSM system which will allow for the removal of the existing altitude alerter, encoding altimeters, air data computer, and standby altimeter. This system uses two Air Data Display Units (ADDU) and a single Analog Interface Unit (AIU) to replace altitude displays and the air data computer. These displays can be susceptible to disruption to both command and response signals as a result of electrical and magnetic interference. This disruption of signals could result in the loss of all critical flight information displays and annunciations or the presentation of misleading information to the pilot.

**Type Certification Basis**

Under the provisions of 14 CFR 21.101, ABX Air Inc. must show that Douglas Models DC–8–61, –61F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. 4A25, 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 modified Douglas Models DC–8–61, –61F, –63, –63F, –71, –71F, –72, –72F, –73, and –73F airplanes include 14 CFR part 25 effective February 1, 1965 as described in Type Certificate Data Sheet 4A25.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Douglas Models DC-8-61, -61F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F 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 Douglas Models DC-8-61, -61F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

Special conditions are initially applicable to the models for which they are issued. Should ABX Air, Inc., apply at a later date for a supplemental type certificate to modify any other models included on Type certificate No. 4A25 to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

**Novel or Unusual Design Features**

The modified Douglas Models DC-8-61, -61F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F airplanes will incorporate a new altitude display system, the Innovative Solutions and Support (IS&S) Duplex Reduced Vertical Separation Minimum (RVSM) system, which was not available at the time of certification of these airplanes, that performs critical functions. This system may be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

**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 electrical and electronic 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 Douglas Models DC-8-61, -61F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F airplanes, modified by ABX Air, Inc. These special conditions require that new electrical and

electronic systems, such as the ADDU, 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 digital avionic/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 indicated in the table below for the frequency ranges indicated. Both peak and average field strength components from the table below 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
8 GHz-12 GHz	3000	300

Frequency	Field strength (volts per meter)	
	Peak	Average
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 Douglas Models DC-8-61, -61F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F airplanes modified by ABX Air Inc. Should ABX Air Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. 4A25 to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101.

**Conclusion**

This action affects only certain novel or unusual design features on Douglas Models DC-8-61, -61F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F airplanes modified by ABX Air Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on these airplanes.

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 type certification basis for Douglas Models DC-8-61, -61F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F airplanes modified by ABX Air Inc.

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 September 10, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03-23970 Filed 9-18-03; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 95**

[Docket No. 30389; Amdt. No. 444]

**IFR Altitudes; Miscellaneous Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for

certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**EFFECTIVE DATE:** 0901 UTC, October 30, 2003.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

**The Rule**

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The

effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

**Conclusion**

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

**List of Subjects in 14 CFR Part 95**

Airspace, Navigation (air).

Issued in Washington, D.C. on September 15, 2003.

**James J. Ballough,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC,

■ 1. The authority citation for part 95 continues to read as follows:

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

■ 2. Part 95 is amended to read as follows:

**REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS**

[Amendment 444 Effective Date October 30, 2003]

From	To	MEA
<b>§ 95.6013 VOR Federal Airway 13 is amended to Read in Part</b>		
McAllen, TX VOR/DME ..... *1600—MOCA	Manny, TX FIX .....	*5000
<b>§ 95.6017 VOR Federal Airway 17 is amended to Read in Part</b>		
Brownsville, TX Vortac .....	Harlingen, TX VOR/DME .....	1600

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 444 Effective Date October 30, 2003]

From	To	MEA
Harlingen, TX VOR/DME .....	McAllen, TX VOR/DME .....	2400
McAllen, TX VOR/DME .....	Fator, TX INT .....	*2500
*1700—MOCA		
Fator, TX FIX .....	*Nelee, TX FIX .....	**4000
*5500—MRA		
**2400—MOCA		
Nelee, TX FIX .....	Laredo, TX VORTAC .....	2500

**§ 95.6033 VOR Federal Airway 33 is Amended to Read in Part**

Bradford, PA VOR/DME .....	Vairs, NY FIX .....	#*10,000
*4,800—MOCA		
Vairs, NY FIX .....	Buffalo, NY VOR/DME .....	#*5,000
*4,000—MOCA		

# BFD R-006 Unusable, Use BUF R-187

**§ 95.6407 VOR Federal Airway 407 is Amended to Read in Part**

Brownsville, TX VORTAC .....	Harlingen, TX VOR/DME.	
Harlingen, TX VOR/DME .....	Jimie, TX INT .....	1700

From	To	MEA	MAA
<b>§ 95.7001 Jet Routes</b>			
<b>§ 95.7231 Jet Route No. 231 is Amended to Read in Part</b>			
Twentynine Palms, CA VORTAC	Hippi, AZ FIX .....	23000	4000

[FR Doc. 03-23968 Filed 9-18-03; 8:45 am]  
BILLING CODE 4910-13-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 520**

**Oral Dosage Form New Animal Drugs; Pyrantel Pamoate Suspension**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by First Priority, Inc. The ANADA provides for oral use of pyrantel pamoate suspension in horses and ponies for the removal and control of various internal parasites. **DATES:** This rule is effective September 19, 2003.

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

**SUPPLEMENTARY INFORMATION:** First Priority, Inc., 1585 Todd Farm Dr.,

Elgin, IL 60123, filed ANADA 200-353 for PRIMEX (pyrantel pamoate) Equine Anthelmintic Suspension for oral use in horses and ponies for the removal and control of various internal parasites. First Priority's PRIMEX Equine Anthelmintic Suspension is approved as a generic copy of Pfizer, Inc.'s STRONGID T, approved under NADA 91-739. ANADA 200-353 is approved as of August 19, 2003, and the regulations are amended in 21 CFR 520.2043 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 Division of Dockets Management (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.

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

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because

it is a rule of "particular applicability." Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801-808.

**List of Subjects in 21 CFR Part 520**

Animal drugs.

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

**PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS**

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

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

**§ 520.2043 [Amended]**

■ 2. Section 520.2043 *Pyrantel pamoate suspension* is amended in paragraph (b)(1) by removing "000069" and adding in its place "000069, 058829,".

Dated: September 11, 2003.

**Linda Tollefson,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. 03-23943 Filed 9-18-03; 8:45 am]

BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 520**

**Oral Dosage Form New Animal Drugs; Cyclosporine**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Novartis Animal Health US, Inc. The NADA provides for the veterinary prescription use of cyclosporine by oral capsule for the control of atopic dermatitis in dogs.

**DATES:** This rule is effective September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** Novartis Animal Health US, Inc., 3200 Northline Ave., suite 300, Greensboro, NC 27408, filed NADA 141-218 that provides for the veterinary prescription use of ATOPICA (cyclosporine) Capsules for the control of atopic dermatitis in dogs weighing at least 4 pounds body weight. The NADA is approved as of August 15, 2003, and part 520 (21 CFR part 520) is amended by adding new § 520.522 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 Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning August 15, 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 520**

Animal drugs.

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

**PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS**

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

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

■ 2. Section 520.522 is added to read as follows:

**§ 520.522 Cyclosporine.**

(a) *Specifications.* Each capsule contains 10, 25, 50, or 100 milligrams (mg) cyclosporine.

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use in dogs—(1) Amount.* 5 mg per kilogram of body weight given orally as a single daily dose for 30 days. Following this initial daily treatment period, the dosage may be tapered by decreasing the frequency of administration to every other day or two times a week, until a minimum frequency is reached which will maintain the desired therapeutic effect.

(2) *Indications for use.* For the control of atopic dermatitis in dogs weighing at least 4 pounds body weight.

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

Dated: September 11, 2003.

**Linda Tollefson,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. 03-23944 Filed 9-18-03; 8:45 am]

**BILLING CODE 4160-01-S**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 522**

**Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection**

**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 hybrid new animal drug application (NADA) filed by Norbrook Laboratories, Ltd. The NADA provides for the prescription and over-the-counter use of a 300 milligram per milliliter (mg/mL) oxytetracycline injectable solution for the treatment of various bacterial diseases of cattle and swine, and for the control of respiratory disease in cattle at high risk of developing bovine respiratory disease (BRD).

**DATES:** This rule is effective September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Joan C. Gotthardt, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7571, e-mail: [jgotthar@cvm.fda.gov](mailto:jgotthar@cvm.fda.gov).

**SUPPLEMENTARY INFORMATION:** Norbrook Laboratories, Ltd., Station Works, Newry, BT35 6JP, Northern Ireland, filed NADA 141-143, a hybrid application that provides for veterinary prescription use of TETRADURE 300 (oxytetracycline) Injection and over-the-counter use of Oxytetracycline Injection 300 mg/mL for the treatment of various bacterial diseases of cattle and swine. Norbrook Laboratories' TETRADURE 300 Injection and Oxytetracycline Injection 300 mg/mL are approved as generic copies of Pfizer's LIQUAMYCIN LA-200, approved under NADA 113-232. TETRADURE 300 Injection is also indicated for the control of respiratory disease in cattle at high risk of developing BRD associated with *Mannheimia (Pasteurella) haemolytica*. The application is approved as of July 25, 2003, and the regulations in part 522 (21 CFR part 522) are amended to reflect the approval by revising § 522.1660 and by adding § 522.1660b. The basis of approval is discussed in the freedom of information summary.

NADA 141-143 is a hybrid application as defined in the Center for Veterinary Medicine's Seventh Generic Animal Drug Policy Letter, dated March

20, 1991. The data submitted in support of this hybrid NADA satisfy the requirements of section 512(b)(1) and (b)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(b)(1) and (b)(2)) and 21 CFR part 514 of the regulations. This hybrid application relies on the approval of the pioneer animal drug product, a 200 mg/mL solution of oxytetracycline, to the extent that such reliance is allowed under section 512(n) of the act, to establish the safety and effectiveness of the active ingredient, oxytetracycline. This is the section 512(b)(2) portion of the hybrid application. It also contains data to support a change from the pioneer product formulation to a generic product of greater concentration, 300 mg/mL; to support use in cattle at a higher dosage of 13.6 mg/lb bodyweight; and to support use for the control of respiratory disease in cattle at high risk of developing BRD. These are the section 512(b)(1) portions of the hybrid application.

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 Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning July 25, 2003. This marketing exclusivity applies only to the increase in formulation concentration to 300 mg/mL, to the veterinary prescription use of the product in cattle at dose ranges of 9 to 13.6 mg/lb bodyweight, and for the control of respiratory disease in cattle at high risk of developing BRD associated with *Mannheimia (Pasteurella) haemolytica* for which new data were required.

The agency has determined under 21 CFR 25.33(a)(1) and (d)(5) 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 Subject 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 522.1660 is amended by revising the section heading to read as follows:

#### § 522.1660 Oxytetracycline injection, 200 milligram/milliliter.

■ 3. Section 522.1660a is added to read as follows:

#### § 522.1660a Oxytetracycline injection, 300 milligram/milliliter.

(a) *Specifications.* Each milliliter (mL) of solution contains 300 milligrams (mg) oxytetracycline base.

(b) *Sponsor.* See No. 055529 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.500 of this chapter.

(d) *Special considerations.* When labeled for use as in paragraph (e)(1)(i)(D) or (e)(1)(i)(E) of this section, labeling shall also bear the following: "Federal law restricts this drug to use by or on the order of a licensed veterinarian."

(e) *Conditions of use—(1) Beef cattle, nonlactating dairy cattle, and calves including preruminating (veal) calves—*

(i) *Amounts and indications for use—*(A) 3 to 5 mg per pound of bodyweight (mg/lb BW) per day (/day) intramuscularly, subcutaneously, or intravenously for treatment of pneumonia and shipping fever complex associated with *Pasteurella* spp. and *Haemophilus* spp., foot-rot and diphtheria caused by *Fusobacterium necrophorum*, bacterial enteritis (scours) caused by *Escherichia coli*, wooden tongue caused by *Actinobacillus lignieresii*, leptospirosis caused by *Leptospira pomona*, wound infections and acute metritis caused by *Staphylococcus* spp. and *Streptococcus* spp.

(B) 5 mg/lb BW/day intramuscularly, subcutaneously, or intravenously for treatment of severe foot-rot, and advanced cases of other indicated diseases.

(C) 9 mg/lb BW intramuscularly or subcutaneously as single dosage where

retreatment of calves and yearlings for bacterial pneumonia is impractical or for treatment of infectious bovine keratoconjunctivitis (pinkeye) caused by *Moraxella bovis*.

(D) 9 to 13.6 mg/lb BW intramuscularly or subcutaneously as single dosage where retreatment of calves and yearlings for bacterial pneumonia is impractical or for treatment of infectious bovine keratoconjunctivitis (pinkeye) caused by *Moraxella bovis*.

(E) 13.6 mg/lb BW intramuscularly or subcutaneously as a single dosage for control of respiratory disease in cattle at high risk of developing BRD associated with *Mannheimia (Pasteurella) haemolytica*.

(ii) *Limitations.* Treatment should be continued 24 to 48 hours following remission of disease signs, however, not to exceed a total of four consecutive days. Do not inject more than 10 mL per site in adult cattle, reducing the volume according to age and body size to 1 to 2 mL in small calves. Exceeding the highest recommended level of drug/lb BW/day, administering more than the recommended number of treatments, and/or exceeding 10 mL intramuscularly or subcutaneously per injection site may result in antibiotic residues beyond the withdrawal time. Rapid intravenous administration in cattle may result in animal collapse. Oxytetracycline should be administered intravenously slowly over a period of at least 5 minutes. Discontinue treatment at least 28 days prior to slaughter. Not for use in lactating dairy animals.

(2) *Swine—(i) Amount.* 3 to 5 mg/lb BW/day; 9 mg/lb BW as a single dosage where retreatment for pneumonia is impractical. Sows: Administer once 3 mg/lb BW, approximately 8 hours before farrowing or immediately after completion of farrowing.

(ii) *Indications for use.* For treatment of bacterial enteritis (scours, colibacillosis) caused by *Escherichia coli*, pneumonia caused by *Pasteurella multocida*, and leptospirosis caused by *Leptospira pomona*. Sows: as an aid in control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *E. coli*.

(iii) *Limitations.* Administer intramuscularly. Treatment should be continued 24 to 48 hours beyond remission of disease signs, however, not to exceed a total of 4 consecutive days. Exceeding the highest recommended level of drug/lb BW/day, administering more than the recommended number of treatments, and/or exceeding 5 mL intramuscularly per injection site may result in antibiotic residues beyond the



withdrawal time. Discontinue treatment at least 28 days prior to slaughter.

Dated: August 27, 2003.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 03-23891 Filed 9-18-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Agri Laboratories, Ltd. The ANADA provides for the administration of an oxytetracycline injectable solution to cattle and swine for the treatment of various bacterial diseases.

**DATES:** This rule is effective September 19, 2003.

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

**SUPPLEMENTARY INFORMATION:** Agri Laboratories, Ltd., P.O. Box 3103, St. Joseph, MO 64503, filed ANADA 200-128 that provides for the use of AGRIMYCIN 200 (oxytetracycline) Injection for the treatment of various bacterial diseases in cattle and swine. Agri Laboratories's AGRIMYCIN-200 Injection is approved as a generic copy of Pfizer's LIQUAMYCIN LA-200, approved under NADA 113-232. The ANADA is approved as of June 13, 2003, and the regulations are amended in 21 CFR 522.1660 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 Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9

a.m. and 4 p.m., Monday through Friday.

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

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

#### List of Subject 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.

#### § 522.1660 [Amended]

■ 2. Section 522.1660 *Oxytetracycline injection* is amended in paragraph (b) by numerically adding "057561"; and in paragraph (d)(1)(iii) in the second and ninth sentences by numerically adding "057561".

Dated: August 29, 2003.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 03-23942 Filed 9-18-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 558

#### New Animal Drugs for Use in Animal Feeds; Salinomycin and Chlortetracycline

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Pennfield Oil Co. The ANADA provides

for the use of single-ingredient Type A medicated articles containing salinomycin and chlortetracycline to make two-way combination drug Type C medicated feeds for broiler chickens.

**DATES:** This rule is effective September 19, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Center for Veterinary Medicine (HFV-104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301-827-8549, e-mail: [lluther@cvm.fda.gov](mailto:lluther@cvm.fda.gov).

**SUPPLEMENTARY INFORMATION:** Pennfield Oil Co., 14040 Industrial Rd., Omaha, NE 68144, filed ANADA 200-357 for use of PENNCHLOR (chlortetracycline) and salinomycin Type A medicated articles to make two-way combination drug Type C medicated feeds for broiler chickens. Pennfield Oil Co.'s ANADA 200 357 is approved as a generic copy of Alpharma, Inc.'s NADA 140-859. The ANADA is approved as of August 19, 2003, and the regulations are amended in 21 CFR 558.550 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 Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) 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 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

**PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS**

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

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

**§ 558.550 [Amended]**

■ 2. Section 558.550 *Salinomycin* is amended in paragraph (a)(3) by adding “and (d)(1)(xvi)” after “(d)(1)(xv)”; and in paragraph (d)(1)(xvi)(c) by removing “and 046573” and by adding in its place “and 053389”.

Dated: September 11, 2003.

**Linda Tollefson,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. 03–23996 Filed 9–18–03; 8:45 am]

**BILLING CODE 4160–01–S**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[CGD08–03–033]

RIN 1625–AA09

**Drawbridge Operation Regulation; Massalina Bayou, Panama City, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary rule.

**SUMMARY:** The Commander, Eighth Coast Guard District, has temporarily changed the regulation governing the operation of the Tarpon Dock bascule span drawbridge across Massalina Bayou, mile 0.0, at Panama City, Bay County, Florida. The regulation will allow the draw of the bridge to remain closed to navigation for one hour to facilitate the American Heart Walk.

**DATES:** This temporary rule is effective from 9 a.m. to 10 a.m. on October 18, 2003.

**ADDRESSES:** Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130–3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Eighth District Bridge Administration Branch maintains the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, (504) 589–2965.

**SUPPLEMENTARY INFORMATION:**

**Good Cause for Not Publishing an NPRM**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Thousands of pedestrians will cross the bridge during the event and this temporary rule is necessary to ensure their safety as they cross the bridge.

**Background and Purpose**

The City of Panama City has requested a temporary rule changing the operation of the Tarpon Dock bascule span drawbridge across Massalina Bayou, mile 0.0, in Panama City, Bay County, Florida. This temporary rule is needed to accommodate approximately 2,000 pedestrians that are expected to participate in a 3.5-mile walk. The bridge is near the beginning of the walk and allowing the bridge to open for navigation during this short time period would disrupt the event and could result in injury. The bridge has a vertical clearance of 7 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Navigation on the waterway consists primarily of commercial fishing vessels, sailing vessels and other recreational craft. Presently, Title 33, Code of Federal Regulations (CFR), § 117.301 states: The draw of the Tarpon Dock bascule span bridge, Massalina Bayou, mile 0.0, shall open on signal; except that from 9 p.m. until 11 p.m. on July 4, each year, the draw need not open for the passage of vessels. The draw will open at any time for a vessel in distress. This temporary rule will allow the bridge to be maintained in the closed-to-navigation position from 9 a.m. to 10 a.m. on October 18, 2003 to facilitate the American Heart Walk.

**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 the regulatory policies and procedures of DHS is unnecessary.

This temporary rule will be only one hour in duration and is therefore

expected to have only a minor effect on the local economy.

**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 temporary 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 transit through the Tarpon dock bridge across Massalina Bayou during the closure. There is not expected to be a significant impact due to the short duration of the closure and the publicity given the event.

**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 rule so that they can 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 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 will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

#### Taking of Private Property

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

#### Civil Justice Reform

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

#### Protection of Children

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

#### Indian Tribal Governments

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

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the

Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have 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 temporary rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation because it modifies an existing bridge operation regulation.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Effective 9 a.m. until 10 a.m. on October 28, 2003, § 117.301 is temporarily suspended and a new § 117.302 is added to read as follows:

#### § 117.302 Massalina Bayou.

The draw of the Tarpon Dock bascule span bridge, Massalina Bayou, mile 0.0, shall open on signal; except that from 9 a.m. until 10 a.m. on October 18, 2003, the draw need not open for the passage of vessels. The draw will open at any time for a vessel in distress.

Dated: September 9, 2003.

#### R.F. Duncan,

*Rear Admiral, U. S. Coast Guard,  
Commander, Eighth Coast Guard District.*  
[FR Doc. 03–24015 Filed 9–16–03; 3:57 pm]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP–2003–0278; FRL–7326–4]

### Cyprodinil; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of cyprodinil in or on brassica, head and stem, subgroup 5A; brassica, leafy greens, subgroup 5B; carrot; herb, subgroup 19A, dried; herb, subgroup 19A, fresh; longan; lychee; pulasan; rambutan; spanish lime; and turnip, greens. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective September 19, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0278, must be received on or before November 18, 2003.

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

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

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System

(NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0278. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available

docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

## II. Background and Statutory Findings

In the **Federal Register** of April 21, 2003 (68 FR 19528) (FRL-7301-6), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of pesticide petitions (PP 2E6447, 2E6461, 2E6485, 3E6529, and 3E6530) by IR-4, 681 US Highway #1 South, New Brunswick, NJ 08902-3390. That notice included a summary of the petitions prepared by Syngenta Crop Protection Incorporated, the registrant.

The petitions requested that 40 CFR 180.532 be amended by establishing tolerances for residues of the fungicide, cyprodinil, CGA 219417; 4-cyclopropyl-6-methyl-N-phenyl-2-pyrimidinamine, in or on the following commodities: brassica, head and stem, subgroup 5A at 2.0 parts per million (ppm); and brassica, leafy greens, subgroup 5B at 10.0 ppm (PP 2E6485); carrot at 0.5 (PP 2E6461); herb subgroup 19A at 10.0 ppm (3E6529); longan; lychee; pulasan; rambutan; and spanish lime at 2.0 ppm (PP 2E6447); and turnip, greens at 10.0 ppm (PP 2E6485).

Petition numbers 2E6485, 2E6461 and 3E6529 were subsequently amended to propose tolerances for brassica, head and stem, subgroup 5A at 1.0 ppm; and brassica, leafy greens, subgroup 5B at 10.0 ppm (PP 2E6485); carrot at 0.75 ppm (PP 2E6461); herb, subgroup 19A, dried at 15.0 ppm, and herb, subgroup 19A, fresh at 3.0 ppm (3E6529); longan; lychee; pulasan; rambutan; and spanish lime at 2.0 ppm (PP 2E6447); and turnip, greens at 10.0 ppm (PP 2E6485). There were no comments received on these petitions.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include

occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL-5754-7).

## III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for residues of cyprodinil, CGA 219417; 4-cyclopropyl-6-methyl-N-phenyl-2-pyrimidinamine on brassica, head and stem, subgroup 5A at 1.0 ppm; brassica, leafy greens, subgroup 5B at 10.0 ppm; carrot at 0.75; herb, subgroup 19A, dried at 15.0 ppm; herb, subgroup 19A, fresh at 3.0 ppm; longan, lychee, pulasan, rambutan, and spanish lime at 2.0 ppm; and turnip, greens at 10.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follow.

### A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by cyprodinil are discussed in the following Table 1 as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity (mouse)	NOAEL = 73.3/103 mg/kg/day, M/F LOAEL = 257/349 mg/kg/day, M/F, based on histopathological changes in the liver
870.3100	90-Day oral toxicity (rat)	NOAEL = 3.14 mg/kg/day LOAEL = 19 mg/kg/day based on increased tubular kidney lesions in males
Non-guideline	28-Day Feeding/ Range Finding(rat)	NOAEL = 64.8/62.2 mg/kg/day, M/F LOAEL = 316/299 mg/kg/day, M/F, based on lower body-weight gains, microcytosis, increase cholesterol and phospholipid levels, and hepatocyte hypertrophy
Non-guideline	28-Day Gavage/ Range Finding(rat)	NOAEL = 10 mg/kg/day LOAEL = 100 mg/kg/day based on increased liver weights and abnormalities in liver morphology
870.3150	90-Day oral toxicity (dog)	NOAEL = 210/232 mg/kg/day, M/F LOAEL = 560/581 mg/kg/day, M/F, based on lower body-weight gains and decreased food consumption in both sexes
870.3200	21/28-Day dermal-toxicity(rat)	NOAEL = 25/125 mg/kg/day, F/M LOAEL = 125/1000 mg/kg/day, F/M, based on clinical signs (hunched posture and/or piloerection).
870.3200	Carcinogenicity - (mouse)	NOAEL = 16.1 mg/kg/day LOAEL = 212.4 mg/kg/day based on a dose-related increase in the incidence of focal and multifocal hyperplasia of the exocrine pancreas in males No evidence of carcinogenicity
870.3700	Prenatal developmental(rat)	Maternal NOAEL = 200 mg/kg/day Maternal LOAEL = 1,000 mg/kg/day based on lower body-weight/body-weight gain and reduced food consumption Developmental NOAEL = 200 mg/kg/day Developmental LOAEL = 1,000 mg/kg/day based on lower mean fetal weights and increased incidence of delayed ossification
870.3700	Prenatal developmental (rabbit)	Maternal NOAEL = 150 mg/kg/day Maternal LOAEL = 400 mg/kg/day based on decreased body-weight gain Developmental NOAEL = 150 mg/kg/day Developmental LOAEL = 400 mg/kg/day based on slight increase of litters showing extra (13th) ribs
870.3800	Reproduction and fertility effects(rat)	Maternal/Systemic NOAEL = 81 mg/kg/day Maternal/Systemic LOAEL = 326 mg/kg/day based on decreased body weight gain in the F0 females during the pre-mating period. Reproductive/Developmental NOAEL = 81 mg/kg/day Reproductive/Developmental LOAEL = 326 mg/kg/day based on decreased pup weights (F1 and F2)
870.4300	Chronic toxicity/Carcinogenicity (feeding)(rat)	NOAEL = 2.7 mg/kg/day LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatis) in males No evidence of carcinogenicity
870.4100	Chronic toxicity (dog)	NOAEL = 65.63/67.99 mg/kg/day, M/F LOAEL = 449.25/446.3, M/F, mg/kg/day based on lower body-weight gains and decreased food consumption and food efficiency
870.5100	Gene Mutation - Bacteria	In a reverse gene mutation assay with Salmonella typhimurium/Escherichia coli, cyprodinil was negative up to concentrations ( $\geq 1,250 \mu\text{g}/\text{plate} \pm \text{S9}$ ) that produced reproducible cytotoxicity for the majority of strains. Compound insolubility was reported at $\geq 313 \mu\text{g}/\text{plate}$ .
870.5100 CGA 249287	Metabolite Gene Mutation - Bacteria	In repeat gene mutation assays in bacteria, CGA 249287 was negative for induction of reverse mutation in the bacterial cultures assayed under the conditions of the experiments.

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

Guideline No.	Study Type	Results
870.5300	<i>In vitro</i> mammalian cell	In a Chinese hamster V79 cell HGPRT forward gene mutation assay, cyprodinil was negative up to cytotoxic concentrations ( $\geq 96.0$ $\mu\text{g}/\text{mL}$ with S9) ( $\geq 24$ $\mu\text{g}/\text{mL}$ without S9).
870.5375	Cytogenetics/ <i>In vitro</i> Chromosomal Aberration	In an <i>in vitro</i> assay for chromosome aberrations in Chinese hamster ovary (CHO) cells, cyprodinil gave negative results up to cytotoxic concentrations ( $\geq 50$ $\mu\text{g}/\text{mL}$ without S9, 18- or 42-hour cell harvest or $\geq 25$ $\mu\text{g}/\text{mL}$ with S9, 18- hour cell harvest) or to the highest sub-cytotoxic concentration (50 $\mu\text{g}/\text{mL}$ with S9, 42-hour cell harvest).
870.5395	Cytogenetics/ <i>In vivo</i> bone marrow micronucleus	In an <i>in vivo</i> bone marrow micronucleus assay, cyprodinil was negative when administered orally (gavage) at 5,000 mg/kg (HDT) to both sexes of Tif:MAGF mice. No signs of overt toxicity or clear evidence of cytotoxicity for the target organ were noted at any dose or sacrifice time.
870.5550	UDS	In an UDS assay in primary rat hepatocytes, cyprodinil was negative up to a cytotoxic concentration (80 $\mu\text{g}/\text{mL}$ )
870.7485	Metabolism and pharmacokinetics	Single oral doses (0.5 or 100 mg/kg bw) of phenyl or pyrimidyl-radiolabelled cyprodinil (purity $\geq 98\%$ ) were administered to Tif:RAIf(SPF) rats, with one low-dose group receiving unlabelled cyprodinil (purity $\geq 99\%$ ) for 2 weeks prior to treatment with radiolabelled compound. Absorption was very rapid with rapid clearance. A minimum of 75% of the administered dose was absorbed. Excretion was rapid and almost complete, with urine as the principle route of excretion (48–68%), and $>90\%$ of the administered dose detected in the urine and feces within 48 hours. Excretion, distribution and metabolite profiles were essentially independent of dose level, pretreatment, and type of label, although there were some quantitative differences sex-dependent qualitative differences in two urinary metabolite fractions.
870.7485	Metabolism and pharmacokinetics	Excreta and bile from radiolabelled cyprodinil-treated Tif:RAIf(SPF) rats were used to characterize, isolate and identify cyprodinil metabolites. Eleven metabolites were isolated from urine, feces and bile, and the metabolic pathways in the rat were proposed. All urinary and biliary metabolites (with the exception of 7U) were conjugated with glucuronic acid or sulfonated, and excreted. Cyprodinil was almost completely metabolized by hydroxylation of the phenyl ring (position 4) or pyrimidine ring (position 5), followed by conjugation. An alternative pathway involved oxidation of the phenyl ring followed by glucuronic acid conjugation. A quantitative sex difference was observed with respect to sulfonation of the major metabolite that formed 6U. The monosulfate metabolite (1U) was predominant in females, whereas equal amounts of mono- and disulfate (6U) conjugates were noted in males. Most of the significant metabolites in feces were exocoons of biliary metabolites (2U, 3U, 1G). These were assumed to be deconjugated in the intestines, partially reabsorbed into the general circulation, conjugated again, and eliminated renally. The major metabolic pathways of cyprodinil were not significantly influenced by the dose, treatment regimen, or sex of the animal.
870.7600	Dermal Absorption (rat)	In a dermal absorption study with cyprodinil formulated as SWITCH 62.5 WG in the rat, the maximum systemic absorption was 21.71% (at 24 hours). An additional 12% of the applied dose (that is potentially available for absorption) remained on the treated skin at 24 hours.

### B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL

was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factors (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or

chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q\*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q\* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q\* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as  $1 \times 10^{-6}$  or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach,

a “point of departure” is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ( $MOE_{cancer} = \text{point of departure/exposures}$ ) is calculated. A summary of the toxicological endpoints for cyprodinil used for human risk assessment is shown in the following Table 2:

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

Exposure Scenerio	Dose used in Risk Assessment UF	FQPA SF and Endpoint for Risk Assessment	Study, Toxicological Endpoint
Acute Dietary females 13–50 years of age	Developmental NOAEL = 150 mg/kg/day UF = 100 Acute RfD = 1.5 mg/kg/day	Special FQPA SF* = 1X aPAD = acute RfD ÷ Special FQPA SF = 1.5 mg/kg/day	Developmental Toxicity - rabbit Developmental LOAEL = 400 mg/kg/day based on slight increase of litters showing extra ribs (13th).
Chronic Dietary all populations	NOAEL= 2.7 UF = 100 Chronic RfD = 0.03 mg/kg/day	Special FQPA SF = 1X cPAD = chronic RfD ÷ Special FQPA SF = 0.03 mg/kg/day	2–Year Chronic Toxicity/ Carcinogenicity-rat LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatitis) in males.
Incidental Oral Short-Term (1–30 days)(Residential)	oral NOAEL= 62 mg/kg/day	LOC for MOE = 100 (Residential, includes the Special FQPA SF of 1X)	28–Day Feeding/Range-finding - rat LOAEL = 299 mg/kg/day based on decreased body-weight gain, increased cholesterol and phospholipid levels, microcytosis, and hepatocyte hypertrophy.
Incidental Oral Intermediate-Term (1–6 months)(Residential)	oral NOAEL= 2.7 mg/kg/day	LOC for MOE = 100 (Residential, includes the Special FQPA SF of 1X)	2–Year Chronic Toxicity/ Carcinogenicity -rat LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatitis) in males.
Dermal Short-Term (1–30 days)(Residential)	oral NOAEL= 62 mg/kg/day (dermal absorption rate = 30%)	LOC for MOE = 100 (Residential, includes the Special FQPA SF of 1X)	28–Day Feeding/Range-finding - rat LOAEL = 299 mg/kg/day based on decreased body-weight gain, increased cholesterol and phospholipid levels, microcytosis, and hepatocyte hypertrophy.
Dermal Intermediate-Term(1–6 months) and Long-Term (26 months)(Residential)	oral NOAEL= 2.7 mg/kg/day(dermal absorption rate = 30%)	LOC for MOE = 100 (Residential, includes the Special FQPA SF of 1X)	2–Year Chronic Toxicity/ Carcinogenicity - Rat LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatitis) in males.
Inhalation Short-Term(1–30 days) (Residential)	oral NOAEL = 62 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the Special FQPA SF of 1X)	28–Day Feeding/Range-finding - rat LOAEL = 299 mg/kg/day based on decreased body-weight gain, increased cholesterol and phospholipid levels, microcytosis, and hepatocyte hypertrophy.
Inhalation Intermediate-Term(1–6 months) and Long-Term (26 months) (Residential)	oral NOAEL = 2.7 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the Special FQPA SF of 1X)	2–Year Chronic Toxicity/ Carcinogenicity in Rats LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatitis) in males.
Cancer (oral, dermal, inhalation)	Classification: “Not likely to be carcinogenic to humans”		

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

### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.532) for the residues of cyprodinil, in or on a variety of raw agricultural commodities: almond, hulls; almond nutmeats; apple, wet pomace; fruit, pome; fruit, stone; grape; and raisins. Time-limited tolerances are established (40 CFR 180.532 (a)(2)) for onion, dry bulb; onion, green; and strawberry (each set to expire December 31, 2003). A time-limited tolerance (40 CFR 180.532 (b)) on caneberries is also set to expire December 31, 2003. Risk assessments were conducted by EPA to assess dietary exposures from cyprodinil in food as follows:

i. *Acute exposure.* In conducting this acute dietary risk assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID®) which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: An unrefined, Tier 1 acute dietary exposure assessment (using tolerance-level residues, DEEM (version 7.76) default processing factors and assuming 100% CT for all proposed commodities) was conducted for the females 13–49 years old population subgroup.

ii. *Chronic exposure.* In conducting this acute dietary risk assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID®) which incorporates food consumption data as reported by respondents in the USDA 1994–1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions was made for the

chronic exposure assessment: An unrefined, Tier 1 chronic dietary exposure assessment (using tolerance-level residues, DEEM default processing factors, and assuming 100% CT for all proposed commodities) was conducted for the general U.S. population and various population subgroups.

iii. *Cancer.* A quantitative cancer aggregate-risk assessment was not performed because cyprodinil is not carcinogenic.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for cyprodinil in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of cyprodinil.

The Agency uses the FQPA Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone model/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow groundwater. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. FIRST and PRZM/EXAMS incorporate an index reservoir environment, and a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the

Agency at this stage is to provide a screen for sorting out pesticides for which it is unlikely that drinking water concentrations would exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to cyprodinil they are further discussed in the aggregate risk sections in Unit III.E.

Environmental fate data suggest that as cyprodinil dissipates from the environment, it forms the transformation product CGA 249287 and other metabolites under natural conditions. CGA 249287 was observed at <11% of the applied parent in aerobic soil metabolism studies. It was also one of the transformation products observed at <14% in the terrestrial field dissipation studies.

EPA concluded that CGA 249287 is a potential concern in drinking water. Therefore, EEC's of CGA 249287 (along with the parent) were also simulated. The maximum application rate and relevant environmental fate parameters for cyprodinil and its metabolite CGA 249287 were used in the two screening models PRZM/EXAMS and SCI-GROW for EEC's in surface water and groundwater, respectively. The outputs of the two screening models represent estimates of the concentrations that might be found in surface water and groundwater due to the use of cyprodinil on cabbage and strawberry.

TABLE 3.—SUMMARY OF EPA'S EEC'S IN SURFACE WATER AND GROUNDWATER TABLE

Chemical	Surface Water (µg/L)		Groundwater (µg/L)
	Acute	Non-Cancer Chronic	
Florida Cabbage			
Cyprodinil	23.9	6.63	0.04
CGA 249287	5.29	1.42	0.12
Total	29.2	8.1	0.16



TABLE 3.—SUMMARY OF EPA'S EEC'S IN SURFACE WATER AND GROUNDWATER TABLE—Continued

Chemical	Surface Water (µg/L)		Groundwater (µg/L)
	Acute	Non-Cancer Chronic	
Florida Strawberry			
Cyprodinil	26.67	5.32	0.04
CGA 249287	6.20	1.04	0.12
Total	32.9	6.4	0.16

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyprodinil is not registered for use on any sites that would result in residential exposure. There are no registered or proposed uses of cyprodinil which result in potential residential exposures.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

EPA does not have, at this time, available data to determine whether cyprodinil has a common mechanism of toxicity with other substances. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to cyprodinil and any other substances and cyprodinil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cyprodinil has a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA’s Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA’s website at <http://www.epa.gov/pesticides/cumulative/>.

#### *D. Safety Factor for Infants and Children*

1. *In general.* Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There are no concerns or residual uncertainties for pre- and/or postnatal exposure.

3. *Conclusion.* There is a complete toxicity data base for cyprodinil and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X Safety factor to protect infants and children should be reduced to 1X because:

i. The toxicological data base is complete for the assessment of toxicity and susceptibility following pre- and/or post-natal exposures. No clinical signs of neurotoxicity or neuropathology were observed in the data base, and the developmental neurotoxicity study was not required.

ii. There is no evidence of increased susceptibility of rat or rabbit fetuses following *in utero* exposure in the developmental studies with cyprodinil. There is no evidence of increased susceptibility of young rats in the reproduction study with cyprodinil.

iii. There are no residual concerns regarding pre- or post-natal toxicity or completeness of the toxicity or exposure data base.

iv. The dietary food exposure assessment is Tier 1, screening level, which is based on tolerance level residues and assumes 100% of all crops

will be treated with cyprodinil. By using these screening level assessments, actual exposures/risks will not be underestimated.

v. The dietary drinking water assessment utilizes water concentration values generated by models and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations which will not likely be exceeded.

vi. There are currently no registered residential uses of cyprodinil.

vii. These assessments will not underestimate the exposure/risks posed by current or proposed uses of cyprodinil.

#### *E. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide’s concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide’s concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative

drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the

aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to cyprodinil will occupy 2% of the aPAD for the females 13–49 years old. In addition, there is potential for acute dietary exposure to

cyprodinil in drinking water. For the general U.S. population, no toxic effects of concern that could be attributed to a single exposure were observed in the oral-toxicity studies, including the developmental toxicity studies in rats and rabbits. Therefore, an acute RfD was not established for this population subgroup and an acute dietary exposure assessment was not conducted for this population subgroup. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CYPRODINIL

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females 13–49 years old	1.5	2	32.9	0.16	44,000

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to cyprodinil from food will utilize 25% of the cPAD for the U.S. population, 65% of the cPAD for (the most highly exposed population

subgroup) children 1–2 years old, 32% of the cPAD for all infants <1 year old, and 21% of the cPAD for females 13–49 years old. Based on the use pattern, chronic residential exposure to residues of cyprodinil is not expected. In addition, there is potential for chronic

dietary exposure to cyprodinil in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CYPRODINIL

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.03	25	8.1	0.16	790
Children (1–2 years old)	0.03	65	8.1	0.16	100
All Infants (<1 year old)	0.03	32	8.1	0.16	200
Females (13–49 years old)	0.03	21	8.1	0.16	710

3. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in mice and rats at doses that were judged to be adequate to assess the carcinogenic potential, cyprodinil was classified as “not likely to be carcinogenic to humans.” Therefore, cyprodinil is not expected to pose a cancer risk to humans.

4. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cyprodinil residues.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

The results of Multiresidue Method testing of cyprodinil and its metabolite CGA–232449 have been forwarded to the Food and Drug Administration (FDA). Cyprodinil was tested according to the FDA Multiresidue protocols (Protocols C, D, and E), and acceptable recoveries were obtained for cyprodinil fortified in apples at 0.50 ppm using Protocol D. The petitioner is proposing the Method AG-631A as a tolerance enforcement method for residues of cyprodinil in/on the subject crops. The method includes confirmatory procedures using gas chromatography/nitrogen/phosphorus detector (GC/NPD). The method has successfully undergone radiovalidation using <sup>14</sup>C-

labeled tomato samples and independent laboratory validation. In addition, the method has been the subject of acceptable Agency petition method validations on stone fruits and almond nutmeat and hulls. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

##### B. International Residue Limits

Canada, Codex, and Mexico do not have maximum residue limits (MRLs) for residues of cyprodinil in/on the proposed crops. Therefore, harmonization is not an issue.

## V. Conclusion

Therefore, the tolerances are established for residues of cyprodinil, CGA 219417; 4-cyclopropyl-6-methyl-N-phenyl-2-pyrimidinamine, in or on brassica, head and stem, subgroup 5A at 1.0 ppm; brassica, leafy greens, subgroup 5B at 10.0 ppm; carrot at 0.75 ppm; herb, subgroup 19A, dried at 15.0 ppm; herb, subgroup 19A, fresh at 3.0 ppm; longan, lychee, pulasan, rambutan, and spanish lime at 2.0 ppm; and turnip, greens at 10.0 ppm.

## VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

### A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2003-0278 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 18, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that

information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603-0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP-2003-0278, to: Public Information and Records Integrity Branch, Information Resources and Services

Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

## VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income*

*Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**VIII. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

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

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 10, 2003.

**Debra Edwards,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.532 is amended by adding alphabetically commodities to the table in paragraph (a)(1) to read as follows:

**§ 180.532 Cyprodinil; tolerances for residues.**

(a) \* \* \*  
(1) \* \* \*

Commodity	Parts per million				
Brassica, head and stem, subgroup 5A	*	*	*	*	1.0
Brassica, leafy greens, subgroup 5B	*	*	*	*	10.0
Carrot					0.75
Herb, subgroup 19A, dried					15.0
Herb, subgroup 19A, fresh	*	*	*	*	3.0
Longan					2.0
Lychee	*	*	*	*	2.0
Pulasan					2.0
Rambutan	*	*	*	*	2.0
Spanish lime					2.0
Turnip, greens	*	*	*	*	10.0

\* \* \* \* \*

[FR Doc. 03-23854 Filed 9-18-03; 8:45 am]

BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-2003-0282; FRL-7324-6]

**Butafenacil; Pesticide Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of butafenacil (1,1-dimethyl-2-oxo-2-(2-propenyloxy)ethyl 2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2*H*)-pyrimidinyl] benzoate) in or on cotton and livestock commodities. Syngenta Crop Protection, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective September 19, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0282, must be received on or before November 18, 2003.

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

**FOR FURTHER INFORMATION CONTACT:** Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5697; e-mail address: [Tompkins.Jim@epa.gov](mailto:Tompkins.Jim@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 28522)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of

entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0282. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still

access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

**II. Background and Statutory Findings**

In the **Federal Register** of February 26, 2003 (68 FR 8896) (FRL-7293-9), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of a pesticide petition (PP 1F6309) by Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419-8300. That notice included a summary of the petition prepared by Syngenta Crop Protection, Inc., the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the herbicide butafenacil, the [2+2] cycloaddition dimer of butafenacil, and CGA-293731 in or on cotton, undelinted seed at 0.5 parts per million (ppm); and in or on cotton, gin byproducts at 13.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL-5754-7).

**III. Aggregate Risk Assessment and Determination of Safety**

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the

available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDC, for a tolerance for residues of butafenacil and CGA-293731 on cattle, kidney; goat, kidney; hog, kidney; horse, kidney; and sheep, kidney at 0.05 parts per million (ppm); in or on cattle, liver; goat, liver; hog, liver; horse, liver; and

sheep, liver at 0.50 ppm; and tolerances for residues of butafenacil in or on cotton, undelinted seed at 0.50 ppm; and in or on cotton, gin byproducts at 10 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

#### A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the

studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by butafenacil are discussed in Table 1 of this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—ACUTE TOXICITY OF BUTAFENACIL

Guideline number	Study Type	Results	Toxicity Category
870.1100	Acute oral	Lethal dose (LD) <sub>50</sub> >5,000 milligrams/kilogram (mg/kg) male and female (M/F)	IV
870.1200	Acute dermal	LD <sub>50</sub> >2,000 mg/kg M/F	III
870.1300	Acute inhalation	Lethal concentration (LC) <sub>50</sub> >5.10 milligrams per Liter (mg/L)	IV
870.2400	Primary eye irritation	Ocular irritation resolved within 96 hours	III
870.2500	Primary skin irritation	Not an irritant	IV
870.2600	Dermal sensitization	Not a sensitizer	Not Applicable (NA)

TABLE 2.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline number	Study Type	Results
870.3100	90-Day oral (dietary) toxicity rodents (rat)	NOAEL = 300 ppm (18.8/20.6 mg/kg/day M/F) LOAEL = 1,000 ppm (62.3/69.3 mg/kg/day M/F), based on decreased body weight gains, decreased hemoglobin, hematocrit, mean corpuscular hemoglobin (MCH), mean corpuscular volume (MCV), increased red cell volume, increased bone marrow hypercellularity; increased bilirubin and urobilinogen; increased alanine aminotransferase; hepatocyte necrosis; inflammatory liver cell infiltration
870.3100	90-Day oral (dietary) toxicity in rodents (mouse)	NOAEL = 30 ppm (4.11/5.67 mg/kg/day M/F) LOAEL = 100 ppm (13.8/20.1 mg/kg/day M/F), based on hepatic histopathology: fatty change, glycogen deposition, and hypertrophy in both sexes
870.3150	90-Day oral (capsule) toxicity in non-rodents (dog)	NOAEL = 200 mg/kg/day M/F LOAEL = 1,000 mg/kg/day M/F, based on decreases in MCV and MCH in males; increases in RDW, HDW, platelets and triglycerides in males; and hemosiderosis in spleen and liver and extramedullary hematopoiesis the spleen in males
870.3200	28-Day dermal toxicity (rat)	NOAEL = 1,000 mg/kg/day LOAEL = not determined
870.3700	Prenatal developmental toxicity in rodents (rat)	Maternal NOAEL = 1,000 mg/kg/day Maternal LOAEL = not determined Developmental NOAEL = 1,000 mg/kg/day Developmental LOAEL = not determined
870.3700	Prenatal developmental toxicity in non-rodents (rabbit)	Maternal NOAEL = 100 mg/kg/day Maternal LOAEL = 1,000 mg/kg/day based on decreased body weight gains and food consumption during the treatment period, and on blood-stained vaginal discharge (related to total litter loss) in two doses Developmental NOAEL = 100 mg/kg/day Developmental LOAEL = 1,000 mg/kg/day based on increased early resorptions and post-implantation loss

TABLE 2.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline number	Study Type	Results
870.3800	2-Generation reproduction and fertility effects	Parental/systemic NOAEL = 30 ppm (2.4/2.5 mg/kg/day M/F) Parental/systemic LOAEL = 300 ppm (23.8/25.2 mg/kg/day M/F), based on decreased body weights and food consumption and on increased incidences of bile duct hyperplasia and liver necrosis in males and females of both generations Offspring NOAEL = 300 ppm (23.8/25.2 mg/kg/day M/F) Offspring LOAEL = 1,000 ppm (79.6/83.8 M/F), based on decreased pup body weight and body weight gain in both generations Reproductive NOAEL = 30 ppm (2.4/2.5 mg/kg/day M/F) Reproductive LOAEL = 300 ppm (23.8/25.2 mg/kg/day M/F) based on an increase in the number of days to mating in both generations
870.4100	1-Year chronic oral (capsule) toxicity (dog)	NOAEL = 500 mg/kg/day M/F LOAEL = 1,000 mg/kg/day M/F, based on decreased body weight gain in males, decreased MCV, MCH, and mean corpuscular hemoglobin concentration (MCHC); increased thrombocytes and red cell volume distribution width; hepatic histopathology: glycogen disposition, inclusion bodies in cytoplasm, and pigment disposition in both sexes, and focal vacuolation in females
870.4200	18-Month carcinogenicity dietary study (mouse)	NOAEL = 10 ppm (1.17/1.20 mg/kg/day M/F) LOAEL = 60 ppm (6.96/6.59 mg/kg/day M/F), based on enlarged livers with increased weights, and hepatic microscopic lesions including Kupffer cell hyperplasia, inflammatory cell infiltration, and single cell necrosis in both sexes and on deposits of lipofuscin in males No evidence of carcinogenicity
870.4300	Combined 2-Year chronic/carcinogenicity dietary study (rat)	NOAEL = 100 ppm (3.76/4.43 mg/kg/day M/F) LOAEL = 300 ppm (11.4/13.0 mg/kg/day M/F), based on minimal hepatic abnormalities in the females, including a fatty change and increased mitotic activity No evidence of carcinogenicity
870.5100	<i>In vitro</i> bacterial gene mutation	Negative in a reverse gene mutation assay in strains TA98, TA100, TA102, TA1535, TA1537 of <i>S. typhimurium</i> and strain WP2(uvrA) of <i>E. coli</i> in the presence and absence of mammalian metabolic activation
870.5300	<i>In vitro</i> mammalian cells in culture	Evidence of borderline induction of mutant colonies in presence of S9 in a mammalian cell gene mutation assay at the hypoxanthine guanine phosphoribosyl transferase (HGPRT) locus of Chinese hamster V79 cells
870.5375	<i>In vitro</i> mammalian cytogenetics	Negative. No evidence of increase in chromosome aberrations over background
870.5395	<i>In vivo</i> mammalian cytogenetics - micronucleus assay (mouse)	Negative. No increase in frequency of micronucleated polychromatic erythrocytes
870.5550	Other genotoxicity - unscheduled DNA synthesis (UDS)- <i>in vivo/in vitro</i>	Negative. No evidence of induction of UDS; no indications of induction of DNA damage
870.5550	Other genotoxicity - UDS - <i>in vitro</i>	Negative. No evidence of induction of UDS; no indications of induction of DNA damage in primary rat hepatocytes in culture
870.6200	Acute neurotoxicity screening battery (rat)	NOAEL = 2,000 mg/kg LOAEL = Not determined No evidence of neurotoxicity
870.6200	Subchronic neurotoxicity screening battery (rat)	NOAEL = 300 ppm 21/24 mg/kg/day M/F LOAEL = 1,000 ppm 72/76 mg/kg/day M/F, based on liver histopathology and decreased motor activity at week 13 in the males No evidence of neurotoxicity

TABLE 2.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline number	Study Type	Results
870.7485	Metabolism and pharmacokinetics (rat)	Overall recovery of administered radioactivity exceeded 95%, most (74–93%) of which was eliminated in the feces. Approximately 4–15% of the administered radioactivity was excreted in the urine over 168 hours while tissue residues were negligible, thereby implying limited absorption. No radioactivity was detected in expired air. Excretion of radioactivity was >90% complete by 48 hours. Up to six components were detected in the urine of rats from both dose groups, the most prevalent being an hydrolysis product, CGA-293731 which represented >90% of urinary radioactivity. Urinary elimination of metabolites was quantitatively greater in female rats than in males. Only minor amounts (near detection limits) of parent compound were detected in the urine of high-dose males. Based upon biliary elimination, –74–79% of the dose entered the hepatobiliary pathway but was eliminated via the feces. An increase in parent compound in feces of the high-dose group was indicative of saturated absorption and/or saturated metabolism, but could not be definitively resolved due to the absence of biliary elimination studies at the high dose. Biliary elimination studies revealed that approximately 60–64% of the administered low dose was detected in 0–4 hour pooled bile samples and that the majority of fecal radioactivity could be attributed to biliary metabolites
870.7485	Mechanistic studies	Effects on enzymes of cultured mouse, rat, and/or human hepatocytes involved with heme biosynthesis
870.7485	Mechanistic studies	Effects on liver microsomal and plasma protox activity and its metabolic conversion
870.7485	Mechanistic studies	Effects on porphyrin profile in rats; treatment induced porphyria, consisting of accumulation of selected porphyrins in the liver, spleen, and plasma and increased excretion in urine and feces
870.7485	Mechanistic studies	Test substance interferes with heme biosynthesis in rats, as evidenced by dose-dependent, pronounced porphyria in the liver, spleen, and plasma; increased porphyrin excretion, and decreased activity of various isoenzymes of the hepatic microsomal cytochrome P450 system
870.7485	Mechanistic studies	Test substance interferes with heme biosynthesis in mice, as evidenced by dose-dependent, pronounced porphyria in the liver, spleen, and plasma; increased porphyrin excretion, and decreased activity of various isoenzymes of the hepatic microsomal cytochrome P450 system
870.7485	Mechanistic studies	Effects on porphyrin profile in mice; treatment induced porphyria, consisting of accumulation of selected porphyrins in the tissue and plasma, and increased excretion of heme precursors

### B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the margin of exposure (MOE). An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. A UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factors (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

A summary of the toxicological endpoints for butafenacil used for human risk assessment is shown in Table 3 of this unit:



TABLE 3.—TOXICOLOGICAL DOSE AND ENDPOINTS FOR BUTAFENACIL

Exposure Scenario	Dose Used in Risk Assessment, UF	Special FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (General population including infants and children)	None	NA	An endpoint attributable to a single dose is not available in the data base
Chronic dietary (All populations)	NOAEL= 1.2 mg/kg/day UF = 100 Chronic RfD = 0.012 mg/kg/day	Special FQPA SF = 1 cPAD = chronic RfD Special FQPA SF = 0.012 mg/kg/day	Mouse oncogenicity study The LOAEL is 6.96 mg/kg/day, based on enlarged livers with increased weights, and hepatic microscopic lesions including Kupffer cell hyperplasia, inflammatory cell infiltration, and single cell necrosis in both sexes and on deposits of lipofuscin in males
Short-term inhalation (1 to 30 days)	Oral NOAEL = 18.8 mg/kg/day	Residential LOC for MOE = 100 Occupational = 100	90-day rat feeding study The LOAEL for this study is 62.3 mg/kg/day based on decreased hemoglobin, hematocrit, mean corpuscular hemoglobin, mean corpuscular volume, increased red cell volume distribution width, and increased incidence of bone marrow hypercellularity
Short-term incidental oral (1 to 30 days)	NOAEL = 18.8 mg/kg/day	Residential LOC for MOE = 100 Occupational = NA	90-day rat feeding study The LOAEL for this study is 62.3 mg/kg/day, based on decreased hemoglobin, hematocrit, mean corpuscular hemoglobin, mean corpuscular volume, increased red cell volume distribution width, and increased incidence of bone marrow hypercellularity
Intermediate-term incidental oral (1–6 months)	NOAEL = 18.8 mg/kg/day	Residential LOC for MOE = 100 Occupational = NA	90-day rat feeding study The LOAEL for this study is 62.3 mg/kg/day, based on decreased hemoglobin, hematocrit, mean corpuscular hemoglobin, mean corpuscular volume, increased red cell volume distribution width, and increased incidence of bone marrow hypercellularity
Dermal (All durations)	NA	NA	Quantification of dermal risk assessment is not required due to lack of concern for dermal, systemic or developmental toxicity
Short-term inhalation (1 to 30 days)	Oral NOAEL = 18.8 mg/kg/day	Residential LOC for MOE = 100 Occupational = 100	90-day rat feeding study The LOAEL for this study is 62.3 mg/kg/day based on decreased hemoglobin, hematocrit, mean corpuscular hemoglobin, mean corpuscular volume, increased red cell volume distribution width, and increased incidence of bone marrow hypercellularity
Intermediate-term inhalation (1 to 6 months)	Oral NOAEL = 18.8 mg/kg/day	Residential LOC for MOE = 100 Occupational = 100	90-day rat feeding study The LOAEL for this study is 62.3 mg/kg/day, based on decreased hemoglobin, hematocrit, mean corpuscular hemoglobin, mean corpuscular volume, increased red cell volume distribution width, and increased incidence of bone marrow hypercellularity

TABLE 3.—TOXICOLOGICAL DOSE AND ENDPOINTS FOR BUTAFENACIL—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	Special FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Long-term inhalation (>6 months)	Oral NOAEL = 1.2 mg/kg/day	Residential LOC for MOE = 100 Occupational = 100	Mouse oncogenicity study The LOAEL is 6.96 mg/kg/day, based on enlarged livers with increased weights, and hepatic microscopic lesions including Kupffer cell hyperplasia, inflammatory cell infiltration, and single cell necrosis in both sexes and on deposits of lipofuscin in males
Cancer (oral, dermal, inhalation)	NA	NA	Classified as “not likely to be carcinogenic to humans”

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

### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No tolerances have previously been established for butafenacil. Risk assessments were conducted by EPA to assess dietary exposures from butafenacil in food as follows:

i. *Acute exposure.* Quantitative acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No appropriate endpoint attributable to a single exposure was identified for butafenacil in either the general population or to the subpopulation of females 13–50 years old, therefore no acute exposure assessment was performed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the Dietary Exposure Evaluation Model Food Commodity Intake Database (DEEM-FCID®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1994–1996, and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The dietary exposure analysis assumed 100% crop treated and tolerance level residues or maximum field trial residues. Based on total food exposure for butafenacil, all population subgroups are below 1% cPAD.

iii. *Cancer.* Butafenacil showed no evidence of carcinogenicity in animal tests in two different species, and therefore, a quantitative cancer risk assessment was not performed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure

analysis and risk assessment for butafenacil in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of butafenacil.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The screening concentration in ground water (SCI-GROW) model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a Tier I model) before using PRZM/EXAMS (a Tier II model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health LOC.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water

exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to butafenacil they are further discussed in Unit III.E.

Based on the FIRST and SCI-GROW models, the EECs of butafenacil for chronic exposures are estimated to be 0.049 parts per billion (ppb) for surface water and 0.00095 ppb for ground water.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Butafenacil is not proposed for registration for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide's residues and “other substances that have a common mechanism of toxicity.”

EPA does not have, at this time, available data to determine whether butafenacil has a common mechanism of toxicity with other substances. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to butafenacil and any other substances

and butafenacil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that butafenacil has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative/>.

#### D. Safety Factor for Infants and Children

1. *In general.* Section 408 of the FFDCFA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There are no residual concerns regarding prenatal or postnatal toxicity or completeness of the toxicity or exposure data base.

3. *Conclusion.* There is a complete toxicity data base for butafenacil and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X SF to protect infants and children could be reduced to 1X. The FQPA factor was reduced because:

- There is no quantitative or qualitative evidence of increased susceptibility of rat and rabbit fetuses to *in utero* exposure in developmental studies or to *in utero* and postnatal exposure to rats in the 2-generation reproduction study.

- There are no residential uncertainties for prenatal or postnatal toxicity.

- The toxicological data base is complete for the assessment of toxicity and susceptibility following prenatal and/or postnatal exposures. No clinical signs of neurotoxicity or neuropathology were observed in the data base, and the developmental neurotoxicity study was not required.

- There are no residual concerns regarding prenatal or postnatal toxicity or completeness of the toxicity or exposure data base.

- The dietary food exposure assessment is Tier I, screening level, which is based on tolerance level residues or maximum field trial residues and assumes 100% of all crops will be treated with chemical. By using these screening level assessments, actual exposures/risks will not be underestimated.

- The dietary drinking water assessment utilizes water concentration values generated by health protective, high-end estimates of water concentrations which will not likely be exceeded.

- There are currently no registered residential uses of butafenacil.

- These assessments will not underestimate the exposure/risks posed by current or proposed uses of butafenacil.

#### E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water

consumption, and body weights. Default body weights and consumption values as used by EPA's Office of Water are used to calculate DWLOCs: 2 L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* No acute risk from exposure to butafenacil is expected because there were no toxic effects of concern attributable to a single dose identified in available data.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to butafenacil from food will utilize <1% of the cPAD for the U.S. population, <1% of the cPAD for infants ages 1-2, and <1% of the cPAD for children ages 3-5. There are no proposed residential uses for butafenacil that result in chronic residential exposure to butafenacil. In addition, there is potential for chronic dietary exposure to butafenacil in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 4 of this unit:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO BUTAFENACIL

Population	cPAD (mg/kg/day)	% cPAD (mg/kg/day)	Chronic Food Exposure <sup>1</sup> (mg/kg/day)	Ground Water EEC <sup>2</sup> (ppb)	Surface Water EEC <sup>2</sup> (ppb)	Chronic DWLOC <sup>3</sup> (ppb)
General U.S. population	0.012	<1%	0.000041	0.00095	0.049	420
All infants (< 1 year old)	0.012	<1%	0.000014	0.00095	0.049	120
Children (1–2 years old)	0.012	<1%	0.000097	0.00095	0.049	120
Children (3–5 years old)	0.012	<1%	0.000104	0.00095	0.049	120
Children (6–12 years old)	0.012	<1%	0.000069	0.00095	0.049	120
Youth (13–19 years old)	0.012	<1%	0.000036	0.00095	0.049	360
Adults (20–49 years old)	0.012	<1%	0.000033	0.00095	0.049	420
Females (13–49 years old)	0.012	<1%	0.000030	0.00095	0.049	360
Adults (50+ years old)	0.012	<1%	0.000031	0.00095	0.049	420

<sup>1</sup> Maximum chronic water exposure (mg/kg/day) = cPAD (mg/kg/day) - chronic food exposure from DEEM (mg/kg/day); no res. exp.

<sup>2</sup> Parent plus CGA-293731; cotton application scenario - 1 x 0.141 lb ai/acre; maximum proposed rate

<sup>3</sup> DWLOC(μg/L) = (allowable water exposure (mg/kg/day) x body weight (kg) x 1,000 μg/mg) ÷ (water consumption (liters)) Consumption = 1 L/day for populations <13 years old and 2 L/day for populations ≥ 13 years old. Default body weights = 70 kg for general U.S. population and adult males, 60 kg for youth and females ≥ 13 years old, and 10 kg for all others.

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Butafenacil is not proposed for registrations for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's LOC.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Butafenacil is not proposed for registrations for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's LOC.

5. *Aggregate cancer risk for U.S. population.* Butafenacil is not expected to pose a cancer risk because no evidence of carcinogenicity was found in adequate animal tests in two different species, therefore no aggregate cancer risk assessment was performed.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to butafenacil residues.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

Syngenta Crop Protection, Inc. proposed Syngenta Method 131–99 for enforcement of the proposed cotton tolerances (adequate validation, independent laboratory validation (ILV), and radiovalidation data have been submitted). The petitioner did not propose ruminant liver and kidney tolerances and therefore did not propose a method for enforcement of the recommended ruminant liver and kidney tolerances. The petitioner has and will submit an enforcement method, adequate validation, ILV, and radiovalidation for enforcement of the ruminant liver and kidney tolerances as a condition of registration.

##### B. International Residue Limits

Canada, Codex, and Mexico do not have maximum residue limits for residues of butafenacil in/on cotton. Therefore, harmonization is not an issue.

##### C. Conditions

As a condition of registration, the petitioner must submit:

1. A ruminant liver and kidney enforcement method and submit adequate validation, ILV, and radiovalidation data.
2. Submit confirmatory data on the frozen storage stability of residues of butafenacil in or on cottonseed, cotton gin byproduct, cotton hull, cotton meal, and cotton oil.
3. Submit a ruminant feeding study to confirm the Agency's estimate of

maximum residues of butafenacil from the goat metabolism study.

#### V. Conclusion

Therefore, the tolerance is established for residues of butafenacil, in or on cattle, kidney; goat, kidney; hog, kidney; horse, kidney; and sheep, kidney at 0.05 ppm; in or on cattle, liver; goat, liver; hog, liver; horse, liver; and sheep, liver at 0.50 ppm; in or on cotton, undelinted seed at 0.50 ppm; and in or on cotton, gin byproducts at 10 ppm.

#### VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

### A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2003-0282 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 18, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603-0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-

5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP-2003-0282, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

### VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in

response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to

include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**VIII. Congressional Review Act**

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

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 10, 2003.

**James Jones,**  
*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.592 is added to read as follows:

**§ 180.592 Butafenacil; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of the herbicide butafenacil, (1,1-dimethyl-2-oxo-2-(2-propenyloxy)ethyl 2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2H)-pyrimidinyl] benzoate) in or on the following raw agricultural commodities:

Commodity	Parts per million
Cotton, gin byproducts ...	10
Cotton, undelinted seed	0.50

(2) Tolerances are established for residues of the herbicide butafenacil, (1,1-dimethyl-2-oxo-2-(2-propenyloxy)ethyl 2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2H)-pyrimidinyl] benzoate) and its metabolite CGA-293731 (1-carboxy-1-methylethyl 2-chloro-5-[3,6-dihydro-3-methyl-2,6-dioxo-4-(trifluoromethyl)-1(2H)-pyrimidinyl] benzoate), in or on the following livestock commodities:

Commodity	Parts per million
Cattle, kidney .....	0.05
Cattle, liver .....	0.50
Goats, kidney .....	0.05
Goats, liver .....	0.50
Hog, kidney .....	0.05
Hog, liver .....	0.50
Horse, kidney .....	0.05
Horse, liver .....	0.50
Sheep, kidney .....	0.05
Sheep, liver .....	0.50

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect and inadvertent residues.* [Reserved]  
[FR Doc. 03–23853 Filed 9–18–03; 8:45 am]  
**BILLING CODE 6560–50–S**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP–2003–0300; FRL–7324–9]

**S-Metolachlor; Pesticide Tolerances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for combined residues of the herbicide S-metolachlor and its metabolites in or on asparagus; carrot, roots; horseradish; onion, green; rhubarb; and swiss chard. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

**DATES:** This regulation is effective September 19, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0300, must be received on or before November 18, 2003.

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

**FOR FURTHER INFORMATION CONTACT:** Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9368; e-mail address: jamerson.hoyt@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

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

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturer (NAICS 311)
- Pesticide manufacturer (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of

entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0300. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

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

## II. Background and Statutory Findings

In the **Federal Register** of August 13, 2003 (68 FR 48373) (FRL-7320-9), EPA

issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of pesticide petitions (4E4420, 7E4916, 8E5029, 8E5030, 9E6055, and 2E6374) by IR-4, 681 U.S. Highway #1 South, North Brunswick, NJ 08902-3390. That notice included a summary of the petitions prepared by Syngenta Crop Protection, Swing Road, Greensboro, NC 27641, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.368 be amended by establishing tolerances for combined residues of the herbicide S-metolachlor, acetamid, 2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)-, (S) and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol (CGA-37913) and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone (CGA-49751), each expressed as the parent compound, in or on asparagus at 0.1 part per million (ppm) (9E6055); carrot, roots at 0.1 ppm (7E4916); horseradish at 0.1 ppm (7E4916); onion, green at 0.2 ppm (2E6374); pepper, bell at 0.50 ppm (4E4420); pepper, nonbell at 0.50 ppm (4E4420); rhubarb at 0.1 ppm (8E5029); and swiss chard at 0.1 ppm (8E5030). IR-4 subsequently revised 7E4916 to propose tolerances for carrot, roots at 0.20 ppm and horse radish at 0.20 ppm. IR-4 also withdrew 4E4420 for pepper. IR-4 plans to submit a pesticide petition proposing a tolerance for fruiting vegetable group, which includes bell and nonbell pepper, later in 2003.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue..."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances, November 26, 1997 (62 FR 62961) (FRL-5754-7).

### III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for combined residues of S-metolachlor and its metabolites on asparagus at 0.10 ppm; carrot, roots at 0.20 ppm; horseradish at 0.20 ppm; onion, green at 0.20 ppm; rhubarb at 0.10 ppm; and swiss chard at 0.10 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

#### A. Toxicological Profile

Metolachlor is a choroacetanilide herbicide that was first registered as a pesticide in 1976. Metolachlor is a racemic mixture consisting of 50% each of the R-enantiomer (CGA 77101) and the S-enantiomer (CGA 77102). The S-enantiomer is the herbicidally active isomer. S-metolachlor is also a racemic mixture comprised of 88% S-enantiomer and 12% R-enantiomer. The Agency has determined that S-metolachlor has either comparable or decreased toxicity as compared to racemic metolachlor.

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by S-metolachlor as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed are discussed in Unit III.A. of the **Federal Register** of April 2, 2003 (68 FR 15945) (FRL-7299-8).

#### B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is

used to estimate the toxicological level of concern (LOC). However, the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factors (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Percent Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q\*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q\* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q\* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as  $1 \times 10^{-6}$  or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure." is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ( $MOE_{\text{cancer}} = \text{point of departure/exposures}$ ) is calculated. A summary of the toxicological endpoints for S-metolachlor used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of April 2, 2003 (68 FR 15945) (FRL-7299-8).

### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances established for metolachlor (40 CFR 180.368(a)(1) and (c)) currently cover residues of S-metolachlor on the same commodities for the same use pattern when the maximum labeled use rate of S-metolachlor is approximately 35% less than the historical use rate of metolachlor. Tolerances have also been established (40 CFR 180.368(a)(2)) for the combined residues of S-metolachlor, in or on a variety of raw agricultural commodities. Time-limited tolerances are established for metolachlor and S-metolachlor (40 CFR 180.368(b)) in support of section 18 emergency exemptions. Risk assessments were conducted by EPA to assess combined dietary exposures from metolachlor and S-metolachlor in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. In conducting this acute dietary risk assessment, EPA used the Dietary Exposure Evaluation Model (DEEM) software with the Food Commodity Intake Database (FCID) which incorporates food consumption data as reported by respondents in the U.S. Department of Agriculture (USDA) 1994-1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. A conservative Tier 1 acute dietary exposure assessment was conducted for all labeled metolachlor and all labeled and proposed S-metolachlor food uses using 100% crop treated (CT) and tolerance level residues.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, EPA used the DEEM software with the FCID which incorporates food consumption data as reported by respondents in the USDA 1994-1996 and 1998 nationwide CSFII and accumulated exposure to the chemical for each commodity. A conservative Tier 1 combined, chronic dietary exposure assessment was conducted for all labeled metolachlor and all labeled and proposed S-metolachlor food uses using 100% CT and tolerance level residues.

2. *Dietary exposure from drinking water.* The environmental fate data base is complete for S-metolachlor. Parent metolachlor/S-metolachlor appear to be moderately persistent to persistent, and range from mobile to highly mobile in different soils. Metolachlor and S-

metolachlor are expected to have similar degradation pathways and rates in soil and water environments. This assessment includes concentrations of parent metolachlor/S-metolachlor and the degradates metolachlor ethane sulfonic acid (ESA) and metolachlor oxanilic acid (OA). Although it was determined that the ESA and OA metabolites appear to be less toxic than parent metolachlor/S-metolachlor, they are included in this risk assessment since they were found in greater abundance than the parent in water monitoring studies. No surface or ground water monitoring studies that specifically target metolachlor/S-metolachlor were available for the drinking water assessment. As a result, the drinking water assessment for parent metolachlor/S-metolachlor is based primarily on monitoring data from the following sources: The U.S. Geological Survey (USGS) National Water Quality Assessment (NAWQA) data base, the U.S. EPA STORET data base, the Acetochlor Registration Partnership (ARP) data base, and two USGS reservoir monitoring studies.

The Agency uses the FQPA Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a Tier 1 model) before using PRZM/EXAMS (a Tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. FIRST and PRZM/EXAMS incorporate an index reservoir environment, and include a PC area factor as an adjustment to account for the maximum PC coverage within a watershed or drainage basin.

The acute estimated environmental concentration (EEC) of 77.6 parts per billion (ppb) was selected from the NAWQA data base, and the chronic EEC of 4.3 ppb was selected from the maximum annual time weighted mean from the NAWQA data. These values represent the estimated concentration of parent metolachlor/S-metolachlor in surface water, and are supported by the metolachlor concentrations from the National Contaminant Occurrence Data base representing analysis of treated drinking water, as well as from model predictions using PRZM/EXAMS. When the monitoring data and modeling data are considered together, there is a general agreement between the various



sources of information used in the assessment.

Acute and chronic concentrations of parent metolachlor/S-metolachlor are not expected to exceed 5.5 ppb in ground water (based on SCI-GROW modeling). SCI-GROW estimates the upper bound ground water concentrations of pesticides likely to occur when the pesticide is used at the maximum allowable rate in areas with ground water vulnerable to contamination. Estimates were based on two applications to corn/turf for a total of 4 lbs. active ingredient/acre (the maximum application rate).

Acute and chronic estimates of metolachlor ESA in surface water (based on FIRST modeling) are 31.9 ppb and 22.8 ppb, respectively. Acute and chronic estimates of metolachlor OA in surface water are 91.4 ppb and 65.1 ppb, respectively. The application rate used for metolachlor ESA and OA in the model was estimated by converting maximum label rates for each use by the maximum percentage of degradate found in fate studies. In addition, each application rate was corrected for molecular weight differences of each degradate. Acute and chronic estimates of metolachlor ESA in ground water (based on SCI-GROW modeling, turf/corn scenario) are not expected to exceed 65.8 ppb. This value is considered representative of both peak and long-term average concentrations because of the inherent transport nature of ground water (generally slow movement from the source of contamination both laterally and horizontally). Acute and chronic estimates of metolachlor OA in ground water (also based on the turf/corn scenario) are not expected to exceed 31.7 ppb. Monitoring data suggest that the SCI-GROW estimates for metolachlor ESA and OA are slightly over estimating the potential impact of metolachlor/S-metolachlor use on ground water.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these

models to quantify drinking water exposure and risk as a percent reference dose (%RfD) or percent population adjusted dose (%PAD). Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to metolachlor/S-metolachlor they are further discussed in the aggregate risk sections in Unit III.E.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). There is the potential for post-application exposure to adults and children resulting from the use of S-metolachlor on residential lawns. Post-application exposures from various activities following lawn treatment are considered to be the most common and significant in residential settings. Post-application exposure is considered to be short-term (1– days of exposure), based on label directions limiting application to one time per season.

A short-term dermal risk assessment was not conducted since no systemic toxicity was observed at the limit dose of 1,000 milligrams/kilogram/day (mg/kg/day) following dermal application and there is no concern for developmental toxicity in rats and rabbits. Post-application inhalation exposure is also expected to be minimal since S-metolachlor is only applied outdoors, the vapor pressure is low and the label specifies that residents should not reenter treated areas until after the spray has dried.

The following post-application incidental oral scenarios following application to lawns and turf have been identified: (1) Short-term oral exposure to toddlers and children following hand-to-mouth exposure; (2) short-term oral exposure to toddlers and children following object-to-mouth exposure; (3) short-term oral exposure to toddlers and children following soil ingestion. The Health Effect Division Standard Operating Procedures for Residential Exposure Assessments (Draft, December 18, 1997) were used as a guideline for the residential post-application assessment. Also, standard values for turf transferable residues, turf transfer coefficients, and hand-to-mouth activities were used as amended by

Exposure Policy 12 (Science Advisory Panel on Exposure, February 22, 2001). The exposure and risk estimates for the three residential exposure scenarios are assessed for the day of application (day "0") since children will likely contact the lawn immediately following application. The following estimates/assumptions were used in the risk assessment: (1) A single application at the maximum label rate of 2.47 lb active ingredient/acre for S-metolachlor, (2) exposure duration for children is assumed to be 2 hours per day, (3) the exposed child's weight is 15 kg (33 pounds), and (4) turf transferable residue (TTR) value of 5%, and object-to-mouth residue value of 20% of the application rate assumed.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." EPA has examined the common mechanism potential for S-metolachlor and has concluded that S-metolachlor should not be included with the chloroacetanilide pesticides designated as a "Common Mechanism Group." The Agency's position is that only some chloroacetanilides, namely acetochlor, alachlor and butachlor should be considered as a "Common Mechanism Group" due to their ability to cause nasal turbinate tumors. Although metolachlor does distribute to the nasal turbinates, and might produce a quinonimine, it is not apparent from the available data that metolachlor shares the same target site in the nasal tissue as acetochlor, alachlor, and butachlor.

For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative/>.

#### D. Safety Factor for Infants and Children

1. *In general.* Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the

completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure in the available toxicity data.

3. *Conclusion.* There is a complete toxicity data base and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The FQPA Safety Factor for the protection of infants and children has been reduced to 1X because: (1) The toxicology data base is complete for the FQPA assessment. (2) there is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to metolachlor in the available toxicity data. (3) a developmental neurotoxicity study is not required for metolachlor. (4) the dietary (food and drinking water) and non-dietary exposure (residential) assessments will not under estimate the potential exposures for infants and children from the use of metolachlor.

#### E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water,

and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the U.S. EPA Office of Water are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes

with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* The acute aggregate risk assessment addresses potential exposure from combined residues of metolachlor/S-metolachlor on food and total residues of metolachlor/S-metolachlor plus ESA and OA degradates in drinking water (surface water and ground water). Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to metolachlor/S-metolachlor will occupy <1% of the aPAD for the U.S. population and all other population subgroups. In addition, there is potential for acute dietary exposure to metolachlor/S-metolachlor and the ESA and OA degradates in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 1:

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO METOLACHLOR/S-METOLACHLOR

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	3.0	<1	200.9	103	104856.1
Infants <1 year	3.0	<1	200.9	103	29931.45
Children 1 to 2 years old	3.0	<1	200.9	103	29917.76
Females 13 to 49 years old	3.0	<1	200.9	103	89915.55

2. *Chronic risk.* The chronic aggregate risk assessment addresses potential exposure from combined residues of metolachlor/S-metolachlor on food and total residues of metolachlor/S-metolachlor plus ESA and OA degradates in drinking water (surface water and ground water). There are no residential uses that result in chronic

residential exposure to S-metolachlor. EPA has concluded that chronic exposure to metolachlor/S-metolachlor from food will utilize 2% of the cPAD for the U.S. population, 4% of the cPAD for children 1 to 2 years old, the subpopulations at greatest exposure and 1% of the cPAD for females 13 to 49 years old. In addition, there is potential

for chronic dietary exposure to metolachlor/S-metolachlor and ESA and OA degradates in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO METOLACHLOR/S-METOLACHLOR

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.1	2	92.2	103	3442.50
Infants <1 year	0.1	2	92.2	103	977.20
Children 1 to 2 years	0.1	4	92.2	103	959.75
Females 13 to 49 years	0.1	1	92.2	103	2962.11

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

S-metolachlor is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and

short-term exposures for metolachlor and S-metolachlor.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in an aggregate MOE of 1,000 for children 1 to 2 years. This aggregate MOE does not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition,

short-term DWLOCs were calculated and compared to the EECs for chronic exposure of metolachlor/S-metolachlor and ESA and OA degradates in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO METOLACHLOR/S-METOLACHLOR

Population Subgroup	Aggregate MOE (Food +Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Children 1 to 2 years old	1,000	100	92.2	103.3	4,000

5. *Aggregate cancer risk for U.S. population.* The NOAEL that was established based on tumors in rats (15 mg/kg/day) is comparable to the NOAEL of 9.7 mg/kg/day selected for cRfD. Therefore, the chronic dietary end point is protective for cancer dietary exposure.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to metolachlor/S-metolachlor residues.

**IV. Other Considerations**

*A. Analytical Enforcement Methodology*

The Pesticide Analytical Manual (PAM) Vol. II, lists a Gas Chromatography (GC)/NPD method (Method I) for determining residues in/on plants and a GC/Mass Spectrometry Detection (MSD) method (Method II) for determining residues in livestock commodities. These methods determine residues of metolachlor and its metabolites as either CGA-37913 or CGA-49751 following acid hydrolysis. Field trial data were obtained using adequate GC/NPD methods (AG-338 or AG-612), which are modifications of Method I. Adequate data are available

on the recovery of metolachlor through Multi-residue Method Testing Protocols. The FDA PEST DATA data base indicates that metolachlor is completely recovered through Method 302, PAM Vol. I (3rd ed., revised 10/97).

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: *residue\_methods@epa.gov*.

*B. International Residue Limits*

No maximum residue limits for either metolachlor or S-metolachlor have been established or proposed by Codex, Canada, or Mexico for any agricultural commodity; therefore, there are no compatibility issues with this action.

**V. Conclusion**

Therefore, tolerances are established for combined residues of S-metolachlor acetamid, 2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)-, (S) and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol (CGA-37913) and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone (CGA-49751), each expressed as the parent compound, in or on asparagus at 0.10 ppm; carrot, roots

at 0.20 ppm; horseradish at 0.20 ppm; onion, green at 0.20 ppm; rhubarb at 0.10 ppm; swiss chard at 0.10 ppm.

**VI. Objections and Hearing Requests**

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

### A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2003-0300 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 18, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603-0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-

5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP-2003-0300, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

### VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of the FFDCA in

response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have

“substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal

Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**VIII. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final

rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 12, 2003.

**Debra Edwards,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180— [AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.368 is amended by alphabetically adding commodities to the table in paragraph (a)(2) to read as follows:

**§ 180.368 Metolachlor; tolerances for residues.**

- (a) \* \* \*
- (2) \* \* \*

Commodity	Parts per million
Asparagus .....	0.10
Carrot, roots .....	0.20
Horseradish .....	0.20
Onion, green .....	0.20
Rhubarb .....	0.10
Swiss chard .....	0.10

\* \* \* \* \*

[FR Doc. 03-24014 Filed 9-16-03; 4:08 pm]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2003-0166; FRL-7325-4]

**Flufenpyr-Ethyl; Pesticide Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of flufenpyr-ethyl; acetic acid, [2-chloro-4-fluoro-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy]-ethyl ester], in or

on field corn, soybeans, and sugarcane, and the combined residues of flufenpyr-ethyl and its metabolite, S-3153 acid-4-OH; [2-chloro-4-hydroxy-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy]-acetic acid, free and conjugated, in or on field corn forage and field corn stover. Valent USA Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

**DATES:** This regulation is effective September 19, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0166, must be received on or before November 18, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted

electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6224; e-mail address: *Miller.Joanne@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pest manufacturer. Potentially affected

categories and entities may include, but are not limited to:

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

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

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0166. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA

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

#### **II. Background and Statutory Findings**

In the **Federal Register** of June 25, 2003 (68 FR 37813) (FRL-7307-8), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of a pesticide petition (0F6164) by Valent USA Corporation, 1333 North Carolina Blvd, Suite 600, P.O. Box 8025, Walnut Creek, CA 94596-8025. That notice included a summary of the petition prepared by Valent USA Corporation. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180 be amended by establishing tolerances for flufenpyr-ethyl; ethyl[2-chloro-4-fluoro-5-(5-methyl-6-oxo-4-trifluoromethyl-1,6-dihydropyridazin-1-yl)phenoxy]acetate, in or on corn, field grain; soybean, seed; and sugarcane, cane at 0.01 parts per million (ppm) and the combined residues of flufenpyr-ethyl and its metabolite S-3153 acid 4-OH; [2-chloro-4-hydroxy-5-(5-methyl-6-oxo-4-trifluoromethyl-1,6-dihydropyridazin-1-yl)phenoxy]-acetic acid in or on corn, field, forage and corn, field, stover at 0.05 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the

pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances November 26, 1997 (62 FR 62961) (FRL-5754-7).

#### **III. Aggregate Risk Assessment and Determination of Safety**

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a tolerance for residues of the herbicide, flufenpyr-ethyl; acetic acid, [2-chloro-4-fluoro-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy]-ethyl ester in or on corn, field, grain; soybean, seed; and sugarcane, cane at 0.01 ppm and the combined residues of flufenpyr-ethyl and its metabolite, 2-chloro-4-hydroxy-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy-acetic acid, free and conjugated in or on corn, field, forage and corn, field, stover at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

##### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by flufenpyr-ethyl are discussed in Table 1 of this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents	NOAEL >1,434/1,591 milligrams/kilogram/day (mg/kg/day) male/ female LOAEL not identified
870.3100	90-Day oral toxicity in non-rodents	NOAEL >1,195/1,378 mg/kg/day M/F LOAEL not identified
870.3100	90-Day oral toxicity rodents (mouse)	NOAEL = 395 mg/kg/day (M) LOAEL = 908 mg/kg/day, based on increased absolute and relative liver weights and increased incidence of hepatic centrilobular vacuolation in male mice
870.3100	28-Day oral toxicity rodents (mouse)	NOAEL = 448/629 mg/kg/day M/F LOAEL = 1,009/1,213 M/F mg/kg/day, based on increased incidence of hepatic centrilobular vacuolation
870.3150	90-Day oral toxicity in non/rodents (dog)	NOAEL = 300 mg/kg/day M/F LOAEL = 1,000 M/F mg/kg/day, based on decreased body weight gains, food consumption, and food efficiency and increased incidence of vomiting
870.3200	21-Day dermal toxicity (rat)	NOAEL = 1,000 mg/kg/day M/F LOAEL not identified
870.3250	90-Day dermal toxicity	NA
870.3465	90-Day inhalation toxicity	NA
870.3700	Prenatal developmental in rodents (rat)	<i>Maternal</i> NOAEL >1,000 mg/kg/day LOAEL was not established <i>Developmental</i> NOAEL = 1,000 mg/kg/day highest dose tested (HDT) LOAEL not identified
870.3700	Prenatal developmental in non-rodents (rabbit)	<i>Maternal</i> NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day, based on increased maternal mortality, clinical signs, decreased food consumption and necropsy findings <i>Developmental</i> NOAEL = 1,000 mg/kg/day LOAEL not identified
870.3700	Prenatal developmental in non-rodents (rabbit)	<i>Maternal</i> NOAEL = 100 mg/kg/day LOAEL = 200 mg/kg/day, based on increased mortality <i>Developmental</i> NOAEL = 1,000 mg/kg/day HDT LOAEL not identified
870.3800	2-Generation reproduction and fertility effects (rat)	<i>Parental/systemic</i> NOAEL = 1,463 - 1,914 mg/kg/day LOAEL not identified <i>Reproductive</i> NOAEL = 1,463 - 1,914 mg/kg/day LOAEL not identified <i>Offspring</i> NOAEL = 1,463 - 1,914 mg/kg/day LOAEL not identified
870.3800	1-Generation reproduction and fertility effects (rat)	<i>Parental/systemic</i> NOAEL = 6.4 - 7.5 mg/kg/day LOAEL not identified <i>Reproductive</i> NOAEL = 6.4 - 7.5 mg/kg/day LOAEL not identified <i>Offspring</i> NOAEL = 6.4 - 7.5 mg/kg/day LOAEL not identified

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

Guideline No.	Study Type	Results
870.3800	1-Generation reproduction and fertility effects (rat)	<i>Parental/systemic</i> NOAEL = 139.4 - 151.7 mg/kg/day LOAEL not identified <i>Reproductive</i> NOAEL = 139.4 - 151.7 mg/kg/day LOAEL not identified <i>Offspring</i> NOAEL = 139.4 - 151.7 mg/kg/day LOAEL not identified
870.4300	Combined chronic toxicity/carcinogenicity rodents (rat)	NOAEL = 778.8/1024.7 mg/kg/day M/F LOAEL was not established No evidence of carcinogenicity
870.4200	Carcinogenicity rodents (mouse)	NOAEL = 39.9 - 43.7 mg/kg/day M/F LOAEL = 401.8 - 447.9 mg/kg/day M/F, based on liver toxicity in both sexes and mild anemia in males No evidence of carcinogenicity
870.5100	Bacterial gene mutation assay	Flufenpyr-ethyl was tested up to concentrations limited by cytotoxicity. There was no evidence of mutagenicity at any dose levels tested. Positive controls induced appropriate response
870.5100	Bacterial gene mutation assay S-3153 acid-4-OH	There was no evidence of a cytotoxic, mutagenic or dose-response trend in any tester system $\pm$ S9. Positive controls induced appropriate response
870.5300	<i>In vitro</i> mammalian cell gene mutation assay	The compound was tested up to an upper concentration limited by solubility and cytotoxicity. Flufenpyr-ethyl was negative for inducing mutations at the TK locus in mouse L5178Y $\pm$ S9
870.5395	Mammalian erythrocyte micronucleus assay	No clinical signs of toxicity was observed. Flufenpyr-ethyl did not induce micronucleated polychromatic erythrocytes after any treatment
870.7485	Metabolism and pharmacokinetics - rat	There is no difference in the metabolic profile of flufenpyr-ethyl attributable to gender or radiolabel position

### B. Toxicological Endpoints

The dose at which no observed adverse effects levels (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is

equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factors (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD) or (cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q\*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q\* approach

assumes that any amount of exposure will lead to some degree of cancer risk. A Q\* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as  $1 \times 10^{-6}$  or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE<sub>cancer</sub> = point of departure/exposures) is calculated. A summary of the toxicological endpoints for flufenpyr-ethyl used for human risk assessment is shown in the following Table 2:



TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FLUFENPYR-ETHYL FOR USE IN HUMAN HEALTH RISK ASSESSMENT<sup>1</sup>

Exposure Scenario	Dose Used in Risk Assessment, UF	Special FQPA SF <sup>2</sup> and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (females 13–50 years of age)	NOAEL = None mg/kg/day UF = N/A Acute RfD = None	Special FQPA SF = 1x aPAD = acute RfD Special FQPA SF = None	A dose and endpoint of concern attributable to a single dose was not available in the data base including the developmental toxicity studies
Acute dietary (general population including infants and children)	NOAEL = None mg/kg/day UF = N/A Acute RfD = None	FQPA SF = 1x aPAD = acute RfD Special FQPA SF = None	A dose and endpoint of concern attributable to a single dose was not available in the data base including the developmental toxicity studies
Chronic dietary (all populations)	NOAEL = 40 mg/kg/day UF = 100 Chronic RfD = 0.4 mg/kg/day	Special FQPA SF = 1x cPAD = chronic RfD Special FQPA SF = 0.4 mg/kg/day	Carcinogenicity study - mice LOAEL = 401.8 mg/kg/day based on liver toxicity (hepatocyte necrosis) in both sexes and mild anemia in males
Short-term Incidental oral (1–30 days)	NOAEL = 100 mg/kg/day	Residential LOC for MOE = 100 Occupational = NA	Developmental toxicity study - rabbit LOAEL = 300 mg/kg/day, based on clinical signs, decreased food consumption and necropsy findings
Intermediate-term Incidental oral (1–6 months)	NOAEL = 100 mg/kg/day	Residential LOC for MOE = 100 Occupational = NA	Developmental toxicity study - rabbit LOAEL = 300 mg/kg/day, based on clinical signs, decreased food consumption and necropsy findings
Dermal all durations	HIARC concluded quantitation of dermal risk is not required due to lack of systemic toxicity at the limit-dose following repeated dermal exposures as well as lack of concern for developmental toxicity		
Short-term inhalation (1–30 days)	NOAEL = 40 mg/kg/day (inhalation absorption rate = 100%)	Residential LOC for MOE = 100 Occupational LOC for MOE = 100	Carcinogenicity study - mice LOAEL = 401.8 mg/kg/day based on liver toxicity (hepatocyte necrosis) in both sexes and mild anemia in males
Intermediate-term inhalation (1–6 months)	NOAEL = 40 mg/kg/day (inhalation absorption rate = 100%)	Residential LOC for MOE = 100 Occupational LOC for MOE = 100	Carcinogenicity study - mice LOAEL = 401.8 mg/kg/day based on liver toxicity (hepatocyte necrosis) in both sexes and mild anemia in males
Long-term inhalation (>6 months)	NOAEL = 40 mg/kg/day (inhalation absorption rate = 100%)	Residential LOC for MOE = 100 Occupational LOC for MOE = 100	Carcinogenicity study - mice LOAEL = 401.8 mg/kg/day based on liver toxicity (hepatocyte necrosis) in both sexes and mild anemia in males
Cancer (oral, dermal, inhalation)	Flufenpyr-ethyl classified as “not likely to be carcinogenic to humans.”		

<sup>1</sup> UF = uncertainty factor, FQPA SF = Special FQPA safety factor, MOE = margin of exposure, LOC = level of concern, NA = Not Applicable.

<sup>2</sup> The reference to the Special FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No tolerances have been previously established for the residues and the combined residues of flufenpyr-ethyl, in or on raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from flufenpyr-ethyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of

concern occurring as a result of a 1–day or single exposure. An endpoint of concern attributable to a single oral dose was not identified for either the general U.S. population (including infants and children) and all population subgroups, or the females 13–50 years old population subgroup for flufenpyr-ethyl; therefore, an acute dietary exposure analysis was not performed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM<sup>TM</sup>) analysis evaluated the individual food consumption as

reported by respondents in the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: An unrefined, chronic dietary exposure assessment was conducted for the general U.S. population and various population subgroups. Proposed tolerance-level residues and 100 percent crop treated (%CT) information were used for all

proposed commodities. The submitted corn grain, soybean, and sugarcane processing studies indicate that flufenpyr-ethyl residues do not concentrate in corn, soybean, and sugarcane processed commodities. Therefore, processing factors were set to 1 for all corn, soybean, and sugarcane processed commodities.

The chronic dietary exposure estimates are below EPA's level of concern (<100% cPAD) for the general U.S. population and all population subgroups (<1% of the cPAD). The chronic assessment was highly conservative, using several upper-end assumptions. Additional refinements, such as inclusion of anticipated residues (ARs) and %CT data, could be made in order to refine the chronic assessment.

iii. *Cancer.* A quantitative cancer aggregate risk assessment was not performed because flufenpyr-ethyl is classified as "not likely" to be carcinogenic based on lack of evidence of carcinogenicity in mice and rats.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for flufenpyr-ethyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of flufenpyr-ethyl.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The Screening Concentration in Groundwater (SCI-GROW) model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a Tier 1 model) before using PRZM/EXAMS (a Tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop (PC) area factor as an adjustment to account for the maximum PC coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The

primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a percent reference dose (%RfD) or percent population adjusted dose (%PAD). Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and from residential uses.

Based on FIRST and SCI-GROW models, the EECs of flufenpyr-ethyl and its metabolite S-3153 acid 4-OH for acute exposures are estimated to be 3.76 parts per billion (ppb) for surface water and 0.05 ppb for ground water. The EECs for chronic exposures are estimated to be 1.504 ppb for surface water and 0.05 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Flufenpyr-ethyl is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether flufenpyr-ethyl has a common mechanism of toxicity with other substances. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to flufenpyr-ethyl and any other substances, and flufenpyr-ethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this

tolerance action, therefore, EPA has not assumed that flufenpyr-ethyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative>

#### *D. Safety Factor for Infants and Children*

1. *In general.* Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There is no evidence of quantitative and/or qualitative evidence of increased susceptibility of rat and rabbit fetuses to *in utero* exposure to flufenpyr-ethyl. There is no evidence of increased qualitative and/or quantitative evidence of increased susceptibility to flufenpyr-ethyl following prenatal exposure in a 2-generation reproduction study(s) in rats or 1-generation reproduction studies.

3. *Conclusion.* There is a complete toxicity data base for flufenpyr-ethyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures.

The FQPA Safety Factor (SF) was reduced to 1x based on toxicological considerations, the conservative residue assumptions used in the chronic dietary exposure risk assessment, the completeness of the toxicity, residue chemistry and environmental fate data base and the lack of the potential for residential exposures.

#### *E. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model

estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the U.S. EPA Office of Water are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default

body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in

drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* No endpoint of concern attributable to a single oral dose was identified for either the general U.S. population (including infants and children) or females 13–50 years old population subgroup.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to flufenpyr-ethyl from food will utilize less than 1% of the cPAD for the U.S. population, less than 1% of the cPAD for all infants less than 1 year old and less than 1% of the cPAD for for children 3–5 years old. There are no residential uses for flufenpyr-ethyl that result in chronic residential exposure to flufenpyr-ethyl.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUFENPYR-ETHYL

Population Subgroup	cPAD (mg/kg)	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC <sup>2</sup> (µg/L)
U.S. population	0.4	<1%	2.0	0.07	14,000
All infants (<1 year old)	0.4	<1%	2.0	0.07	4,000
Children (1–2 years old)	0.4	<1%	2.0	0.07	4,000
Children (3–5 years old)	0.4	<1%	2.0	0.07	4,000
Children (6–12 years old)	0.4	<1%	2.0	0.07	4,000
Youth (13–19 years old)	0.4	<1%	2.0	0.07	12,000
Adults (20–49 years old)	0.4	<1%	2.0	0.07	14,000
Females (13–49 years old)	0.4	<1%	2.0	0.07	12,000
Adults (50+ years old)	0.4	<1%	2.0	0.07	14,000

3. *Short-term risk.* Short-term aggregate risk assessment was not performed because there are no registered or proposed residential non-food uses. Flufenpyr-ethyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate risk assessment was not performed because there are no registered or proposed residential non-food uses. Flufenpyr-ethyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and

water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* Flufenpyr-ethyl is not carcinogenic.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to flufenpyr-ethyl residues.

**IV. Other Considerations**

*A. Analytical Enforcement Methodology*

The Agency has a method (Method RM-36–1) for determination of flufenpyr-ethyl per se and a method (Method RM-36–3c) for determination for free and conjugated S-3153 acid-4-

OH. An enforcement (confirmatory) method capable of measuring both parent and metabolite is being requested by the Agency.

*B. International Residue Limits*

There are currently no established tolerances for residues of flufenpyr-ethyl in/on any plant or livestock commodities. As there are no Mexican, Canadian or Codex maximum residue limits established for flufenpyr-ethyl in/on field corn, soybeans and sugarcane, there are no compatibility issues to be reconciled.

*C. Conditions*

Confirmatory storage stability data for the metabolite S-3153 acid-4-OH in field corn forage and stover and an

enforcement method for measuring both parent and metabolite are required.

## V. Conclusion

Therefore, the tolerance is established for residues of the herbicide flufenpyr-ethyl; acetic acid, [2-chloro-4-fluoro-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy]-ethyl ester, in or on: Corn, field, grain; soybean, seed; and sugarcane, cane at 0.01 ppm and the combined residues of the herbicide; flufenpyr-ethyl; acetic acid, [2-chloro-4-fluoro-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy]-ethyl ester, and its metabolite, S-3153 acid- 4-OH; [2-chloro-4-hydroxy-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy]-acetic acid, free and conjugated in/on: Corn, field, forage; and corn, field, stover at 0.05 ppm.

## VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

### A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2003-0166 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 18, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of

the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603-0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in

Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP-2003-0166, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

## VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any

unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have

"substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**VIII. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

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

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 15, 2003.

**James Jones,**  
*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180— [AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.595 is added to read as follows:

**§ 180.595 Flufenpyr-ethyl; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of the herbicide, flufenpyr-ethyl; acetic acid, [2-chloro-4-fluoro-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-phenoxy]-ethyl ester, in or on the following commodities:

Commodity	Parts per million
Corn, field, grain .....	0.01
Soybean, seed .....	0.01
Sugarcane, cane .....	0.01

(2) Tolerances are established for residues of the herbicide flufenpyr-ethyl; acetic acid, [2-chloro-4-fluoro-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-

(6H)-pyridazinyl]-phenoxy]-ethyl ester, and its metabolite, S-3153 acid-4-OH; [2-chloro-4-hydroxy-5-[5-methyl-6-oxo-4-(trifluoromethyl)-1-(6H)-pyridazinyl]-

phenoxy]-acetic acid, free and conjugated, in or on the following commodities:

Commodity	Parts per million
Corn, field, forage .....	0.05
Corn, field, stover .....	0.05

(b) *Section 18 emergency exemptions.* [Reserved]  
 (c) *Tolerances with regional registrations.* [Reserved]  
 (d) *Indirect or inadvertent residues.* [Reserved]  
 [FR Doc. 03-24118 Filed 9-17-03; 1:38 pm]  
 BILLING CODE 6560-50-S

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 65**

**Changes in Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, 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 table below and revise the Flood Insurance Rate Maps ((FIRMs) in effect for the listed communities prior to this date.

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

**FOR FURTHER INFORMATION CONTACT:** 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 for the modified BFEs for each community listed. These modified

elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

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

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

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

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

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

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

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

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

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

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

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

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

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

**PART 65—[AMENDED]**

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

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

**§ 65.4 [Amended]**

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

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arkansas: Sebastian, (Case No. 02-06-1094P), (FEMA Docket No. P7620).	City of Greenwood.	November 13, 2002, November 20, 2002, <i>Greenwood Democrat.</i>	The Honorable Judy Selkirk, Mayor, City of Greenwood, City Hall, 30 Bell Road, Greenwood, AR 72936.	November 25, 2002 ..	050198

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arkansas: Crawford, (Case No. 02-06-873P), (FEMA Docket No. P7620).	City of Van Buren.	November 13, 2002, November 20, 2002, <i>Van Buren Press Argus Courier</i> .	The Honorable John Riggs, Mayor, City of Van Buren, 1003 Broadway, Van Buren, AR 72956.	February 19, 2003 .....	050053
Kansas: Johnson, (Case No. 02-07-1010P), (FEMA Docket No. P7618).	City of Lenexa ...	October 22, 2002, October 29, 2002, <i>The Legal Record</i> .	The Hon. Michael A. Boehm, Mayor, City of Lenexa, P.O. Box 14888, Lenexa, KS 66215.	September 19, 2002 ..	200168
Kansas: Johnson, (Case No. 01-07-457P), (FEMA Docket No. P7620).	City of Overland Park.	November 13, 2002, November 20, 2002, <i>The Sun Newspapers</i> .	The Honorable Ed Eilert, Mayor, City of Overland Park, City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	February 19, 2003 .....	200174
Kansas: Johnson, (Case No. 02-07-1010P), (FEMA Docket No. P7618).	City of Shawnee	October 24, 2002, October 31, 2002, <i>The Journal Herald</i> .	The Honorable Jim Allen, Mayor, City of Shawnee, 11110 Johnson Drive, Shawnee, KS 66203.	September 19, 2002 ..	200177
Minnesota: Dakota, (Case No. 02-05-1843P), (FEMA Docket No. P7618).	City of Burnsville	October 24, 2002, October 31, 2002, <i>Dakota County Tribune</i> .	The Hon. Elizabeth Kautz, Mayor, City of Burnsville, 100 Civic Center Parkway, Burnsville, MN 55337.	September 30, 2002 ..	270102
Minnesota: Washington, (Case No. 02-05-0419P), (FEMA Docket No. P7620).	City of Hugo .....	November 6, 2002, November 13, 2002, <i>The White Bear Press</i> .	The Honorable Fran Miron, Mayor, City of Hugo, 14669 Fitzgerald Avenue North, Hugo, MN 55038.	November 15, 2002 ...	270504
Nebraska: Lancaster, (Case No. 02-07-1012P), (FEMA Docket No. P7620).	City of Lincoln ...	November 18, 2002, November 25, 2002, <i>Lincoln Journal Star</i> .	The Honorable Don Wesley, Mayor, City of Lincoln, 555 South 10th Street, Room 208, Lincoln, NE 68508.	October 25, 2002 .....	315273
Ohio: Franklin, (Case No. 02-05-3971P), (FEMA Docket No. P7620).	Unincorporated Areas.	October 31, 2002, November 7, 2002, <i>The Columbus Dispatch</i> .	The Hon. Arlene Shoemaker, President, Franklin County, Board of Commissioners, 373 South High Street, 26th Floor, Columbus, OH 43215-6304.	October 15, 2002 .....	390167
Texas: Denton, (Case No. 02-06-1264P), (FEMA Docket No. P7620).	Town of Copper Canyon.	November 18, 2002, November 25, 2002, <i>Denton Record Chronicle</i> .	The Hon. Chuck Wainscott, Mayor, Town of Copper Canyon, 400 Woodland Drive, Copper Canyon, TX 75067-8501.	October 25, 2002 .....	481508
Texas: Denton, (Case No. 02-06-419P), (FEMA Docket No. P7620).	City of Denton ...	November 19, 2002, November 26, 2002, <i>Denton Record Chronicle</i> .	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, TX 76201.	February 25, 2003 .....	48094
Texas: Denton, (Case No. 02-06-419P), (FEMA Docket No. P7620).	Unincorporated Areas.	November 19, 2002, November 26, 2002, <i>Denton Record Chronicle</i> .	The Honorable Mary Horn, Judge, Denton County, Courthouse-on-the-Square, 110 West Hickory Street, Denton, TX 76201.	February 25, 2003 .....	480774
Texas: Tarrant, (Case No. 02-06-263P), (FEMA Docket No. P7620).	City of Forth Worth.	December 2, 2002, December 9, 2002, <i>Fort Worth Star Telegram</i> .	The Honorable Kenneth Barr, Mayor, City of Forth Worth, 1000 Throckmorton Street, Forth Worth, TX 76102.	March 10, 2003 .....	480596
Texas: Harris, (Case No. 02-06-1092P), (FEMA Docket No. P7620).	Unincorporated Areas.	November 19, 2002, November 26, 2002, <i>Houston Chronicle</i> .	The Honorable Robert Eckels, Judge, Harris County, 1001 Preston Street, Houston, TX 77002.	October 29, 2002 .....	480287

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Texas: Harris, (Case No. 02-06-1537P), (FEMA Docket No. P7620).	City of Houston	December 12, 2002, December 19, 2002, <i>Houston Chronicle</i> .	The Honorable Lee P. Brown, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251-1562.	March 20, 2003 .....	480296
Texas: Tarrant, (Case No. 01-06-1464P), (FEMA Docket No. P7620).	City of North Richland Hills.	December 10, 2002, December 17, 2002, <i>The Star Telegram</i> .	The Hon. T. Oscar Trevino, Jr., Mayor, City of North Richland Hills, 7301 N.E. Loop 820, North Richland Hills, TX 76180.	March 18, 2003 .....	480607
Texas: Collin, (Case No. 02-06-536P), (FEMA Docket No. P7620).	City of Plano .....	November 13, 2002, November 20, 2002, <i>Plano Star Courier</i> .	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, TX 75086-0358.	February 19, 2003 .....	480140
Texas: Collin, (Case No. 02-06-992P), (FEMA Docket No. P7620).	City of Plano .....	December 4, 2002, December 11, 2002, <i>Plano Star Courier</i> .	The Honorable Pat Evans, Mayor, City of Plano, 1520 Avenue K, P.O. Box 860358, Plano, TX 75086.	March 12, 2003 .....	480140
Texas: Bexar, (Case No. 02-06-1072P), (FEMA Docket No. P7620).	City of San Antonio.	November 13, 2002, November 20, 2002, <i>San Antonio Express News</i> .	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	February 19, 2003 .....	480045
Texas: Bexar, (Case No. 02-06-1707P), (FEMA Docket No. P7620).	City of San Antonio.	December 4, 2002, December 11, 2002, <i>San Antonio Express News</i> .	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	March 12, 2003 .....	480045
Texas: Tarrant, (Case No. 02-06-263P), (FEMA Docket No. P7620).	Unincorporated Areas.	December 2, 2002, December 9, 2002, <i>Forth Worth Star Telegram</i> .	The Hon. Tom Vandergriff, Tarrant County Judge, 100 E. Weatherford, Fort Worth, TX 76196.	March 10, 2003 .....	480582
Texas: Bell, (Case No. 02-06-590P), (FEMA Docket No. P7620).	City of Temple ...	December 11, 2002, December 18, 2002, <i>Temple Daily Telegram</i> .	The Honorable Bill Jones, III, Mayor, City of Temple, 2 North Main Street, Temple, TX 76501.	March 19, 2003 .....	480034
Texas: Tarrant, (Case No. 02-06-263P), (FEMA Docket No. P7620).	City of Watauga	December 2, 2002, December 9, 2002, <i>Forth Worth Star Telegram</i> .	The Honorable Harry Jeffries, Mayor, City of Watauga, 7101 Whitley Road, Watauga, TX 76148.	March 10, 2003 .....	480613

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

Dated: September 10, 2003.

**Anthony S. Lowe,**

*Mitigation Division Director, Emergency Preparedness and Response Directorate.*

[FR Doc. 03-23988 Filed 9-18-03; 8:45 am]

BILLING CODE 6718-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 65

[Docket No. FEMA-P-7626]

#### Changes in Flood Elevation Determinations

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

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations (BFEs) is appropriate because

of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

**DATES:** These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

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



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

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

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

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

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

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

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or

to remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

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

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

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

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

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

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

**PART 65—[AMENDED]**

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

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

**§ 65.4 [Amended]**

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Pulaski (Case No. 02-06-2217P).	City of Little Rock	June 25, 2003; July 2, 2003; <i>Little Rock Free Press</i> .	The Honorable Jim Dailey, Mayor, City of Little Rock, Little Rock City Hall, Room 203, 500 West Markham, Little Rock, AR 72201.	June 13, 2003 ....	050181
Illinois:					
Cook (Case No. 03-05-0548P).	Unincorporated Areas.	July 10, 2003; July 17, 2003; <i>Orland Township Messenger</i> .	Mr. John H. Stroger, Jr., President, Board of Commissioners, Cook County, 118 North Clark Street, 5th Floor, Chicago, IL 60602.	October 16, 2003	170054
Cook (Case No. 03-05-1844P).	City of Countryside.	July 9, 2003; July 16, 2003 <i>The Suburban Life</i> .	The Honorable Carl W. Le Gant, Mayor, City of Countryside, City Hall, 5550 East Avenue, Countryside, IL 60525-3689.	July 25, 2003 .....	170079
Will (Case No. 03-05-0143P).	Village of Frankfort.	April 17, 2003; April 24, 2003; <i>The Daily Southtown</i> .	The Honorable Raymond Rossi, Mayor, Village of Frankfort, 432 West Nebraska Street, Frankfort, IL 60423.	March 26, 2003	170701
Kane (Case No. 03-05-1473P).	City of Geneva ...	April 23, 2003; April 30, 2003; <i>Kane County Chronicle</i> .	The Honorable Kevin R. Burns, Mayor, City of Geneva, 22 South First Street, Geneva, IL 60134.	July 30, 2003 .....	170325
Will (Case No. 02-05-3980P).	Village of Plainfield.	April 23, 2003; April 30, 2003; <i>The Enterprise</i> .	The Honorable Richard Rock, Mayor, Village of Plainfield, 530 West Lockport Street, Suite 206, Plainfield, IL 60544.	July 30, 2003 .....	170771
Will (Case No. 03-05-0130P).	Village of Romeoville.	July 23, 2003; July 30, 2003; <i>The Herald News</i> .	The Honorable Fred Dewald, Jr., Mayor, Village of Romeoville, Village Hall, 13 Montrose Drive, Romeoville, IL 60446.	October 29, 2003	170711

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Kane (Case No. 03-05-1474P).	Village of South Elgin.	May 19, 2003; May 26, 2003; <i>The Courier News</i> .	Mr. James W. Hansen, II, Village President, Village of South Elgin, 10 North Water Street, South Elgin, IL 60177.	April 17, 2003 ....	170332
Will (Case No. 02-05-3980P).	Unincorporated Areas.	April 23, 2003; April 30, 2003; <i>The Enterprise</i> .	Mr. Joseph Mikan, Will County Executive, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	July 30, 2003 .....	170695
Indiana: Lake (Case No. 02-05-3080P).	City of Crown Point.	May 1, 2003; May 8, 2003; <i>Crown Point Star</i> .	The Honorable James D. Metros, Mayor, City of Crown Point, City Hall, 101 North East Street, Crown Point, IN 46307.	April 7, 2003 .....	180128
Lake (Case No. 03-05-0072P).	Unincorporated Areas.	May 15, 2003; May 22, 2003; <i>Crown Point Star</i> .	Mr. Wilbur Cox, Director, Lake County Planning Commission, 2293 North Main Street, Lake County Government Center, Crown Point, IN 46307.	August 21, 2003	180126
Kansas: Johnson (Case No. 03-07-494P).	City of Olathe .....	May 14, 2003; May 21, 2003; <i>The Olathe News</i> .	The Honorable Michael Copeland, Mayor, City of Olathe, 100 West Santa Fe, Olathe, KS 66061.	April 28, 2003 ....	200173
Johnson (Case No. 03-07-477P).	City of Overland Park.	May 22, 2003; May 29, 2003; <i>The Sun Newspapers</i> .	The Honorable Ed Eilert, Mayor, City of Overland Park, City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	April 23, 2003 ....	200174
Johnson (Case No. 02-07-792P).	City of Overland Park.	June 19, 2003; June 26, 2003; <i>The Sun Newspapers</i> .	The Honorable Ed Eilert, Mayor, City of Overland Park, City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	September 25, 2003.	200174
Johnson (Case No. 03-07-492P).	City of Prairie Village.	June 3, 2003; June 10, 2003; <i>The Legal Record</i> .	The Honorable Ronald L. Shaffer, Mayor, City of Prairie Village, 7700 Mission Road, Prairie Village, KS 66208-4230.	April 11, 2003 ....	200175
Sumner (Case No. 02-07-555P).	City of Wellington	July 17, 2003; July 24, 2003; <i>Wellington Daily News</i> .	The Honorable Richard J. Granger, Mayor, City of Wellington, 317 South Washington, Wellington, KS 67152.	October 23, 2003	200349
Louisiana: St. Charles Parish (Case No. 03-06-127P).	Unincorporated Areas.	June 4, 2003; June 11, 2003; <i>St. Charles Herald</i> .	Mr. Albert D. Laque, Parish President, St. Charles Parish, P.O. Box 302, Hahnville, LA 70057.	May 2, 2003 .....	220160
Maryland: Cecil (Case No. 03-03-041P).	Town of Elkton ...	June 30, 2003; July 7, 2003; <i>Cecil Whig</i> .	The Honorable Joseph L. Fisona, Mayor, Town of Elkton, P.O. Box 157, Municipal Building, 100 Railroad Avenue, Elkton, MD 21922-0157.	June 16, 2003 ....	240022
Michigan: Wayne (Case No. 02-05-3652P).	Township of Canton.	July 10, 2003; July 17, 2003; <i>Canton Eagle</i> .	Mr. Thomas Yack Township Supervisor, Township of Canton, 1150 South Canton Center, Canton, MI 48188.	June 24, 2003 ....	260219
Macomb (Case No. 02-05-1639P).	Township of Macomb.	May 13, 2003; May 20, 2003; <i>The Macomb Daily</i> .	Mr. John D. Brennan, Township Supervisor, Township of Macomb, 54111 Broughton Road, Macomb, MI 48042.	May 19, 2003 .....	260445
Oakland (Case No. 03-05-1456P).	City of Novi .....	June 12, 2003; June 19, 2003; <i>The Novi News</i> .	The Honorable Richard Clark, Mayor, City of Novi, 45175 West 10 Mile Road, Novi, MI 48375.	May 21, 2003 .....	260175
Minnesota: Jackson (Case No. 03-05-2556P).	City of Jackson ..	May 22, 2003; May 29, 2003; <i>Jackson County Pilot</i> .	The Honorable Ray Hansen, Mayor, City of Jackson, 80 West Ashley, Jackson, MN 56143.	April 17, 2003 ....	270213
Missouri: Cass (Case No. 02-07-670P).	City of Harrisonville.	July 11, 2003; July 18, 2003; <i>Cass County Democrat-Missourian</i> .	The Honorable Kevin Wood, Mayor, City of Harrisonville, 300 East Pearl Street, Harrisonville, MO 64701.	October 17, 2003	290068
Platte (Case No. 03-07-479P).	City of Kansas City.	May 23, 2003; May 30, 2003; <i>Kansas City Star</i> .	The Honorable Kay Barnes, Mayor, City of Kansas City, City Hall, 29th Floor, 414 East 12th Street, Kansas City, MO 64106.	August 29, 2003	290173

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Platte (Case No. 03-07-480P).	City of Riverside	May 23, 2003; May 30, 2003; <i>Kansas City Star</i> .	The Honorable Betty Burch, Mayor, City of Riverside, 2950 Northwest Vivion Road, Riverside, MO 64150.	August 29, 2003	290296
St. Louis (Case No. 03-07-111P).	City of Town & Country.	July 9, 2003; July 16, 2003; <i>St. Louis Post Dispatch</i> .	The Honorable David A. Karney, Mayor, City of Town & Country, Municipal Center, 1011 Municipal Center Drive, Town & Country, MO 63131.	October 15, 2003	290389
Nebraska: York (Case No. 02-07-661P).	City of York .....	May 21, 2003; May 28, 2003; <i>York News-Times</i> .	The Honorable Greg Adams, Mayor, City of York, P.O. Box 276, York, NE 68467.	August 27, 2003	310237
New Mexico: Bernalillo (Case No. 03-06-200P).	City of Albuquerque.	July 8, 2003; July 15, 2003; <i>Albuquerque Journal</i> .	The Honorable Martin Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	June 13, 2003 ....	350002
Bernalillo (Case No. 03-06-439P).	City of Albuquerque.	June 2, 2003; June 9, 2003; <i>Albuquerque Journal</i> .	The Honorable Martin Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	May 14, 2003 .....	350002
Bernalillo, (Case No. 03-06-200P).	Unincorporated Areas.	July 8, 2003; July 15, 2003; <i>Albuquerque Journal</i> .	The Honorable Tim Cummins, Chairman, Bernalillo County Commission, One Civic Plaza, NW., Albuquerque, NM 87102.	June 13, 2003 ....	350001
Bernalillo (Case No. 02-06-1424P).	Unincorporated Areas.	July 16, 2003; July 23, 2003; <i>Albuquerque Journal</i> .	The Honorable Tom Rutherford, Chairman, Bernalillo County, 2400 Broadway, SE., Albuquerque, NM 87102.	October 22, 2003	350001
North Carolina: Wake (Case No. 03-04-133P).	Town of Cary .....	April 3, 2003; April 10, 2003; <i>The Cary News</i> .	Mr. William B. Coleman, Jr., Town Manager, Town of Cary, Town Hall Building A, 316 N. Academy Street, P.O. Box 8005, Cary, NC 27512-8005.	July 10, 2003 .....	370238
Ohio: Butler (Case No. 03-05-1848P).	Unincorporated Areas.	July 21, 2003; July 28, 2003; <i>The Journal-News</i> .	Mr. Michael A. Fox, President, Butler County Commissioners, Government Services Center, 315 High Street, 6th Floor, Hamilton, OH 45011.	October 27, 2003	390037
Warren (Case No. 02-05-3976P).	City of Springboro.	April 10, 2003; April 17, 2003; <i>The Star Press</i> .	The Honorable John Agenbroad, Mayor, City of Springboro, 320 West Central Avenue, Springboro, OH 45066.	July 17, 2003 .....	390564
Oklahoma: Cleveland (Case No. 03-06-187P).	City of Norman ..	July 31, 2003; August 7, 2003; <i>The Norman Transcript</i> .	The Honorable Ron Henderson, Mayor, City of Norman, 2143 Jackson Drive, Norman, OK 73071.	November 6, 2003.	400046
Oklahoma (Case No. 02-06-654P).	City of Oklahoma City.	June 23, 2003; June 30, 2003; <i>The Daily Oklahoman</i> .	The Honorable Kirk Humphreys, Mayor, City of Oklahoma City, 200 North Walker, 3rd Floor, Oklahoma City, OK 73102.	September 29, 2003.	405378
Tulsa (Case No. 02-06-225P).	City of Tulsa .....	April 23, 2003; April 30, 2003; <i>Tulsa World</i> .	The Honorable Bill LaFortune, Mayor, City of Tulsa, City Hall, 200 Civic Center, Tulsa, OK 74103.	April 14, 2003 ....	405381
Tulsa (Case No. 03-06-1535P).	City of Tulsa .....	June 23, 2003; June 30, 2003; <i>Tulsa World</i> .	The Honorable Bill LaFortune, Mayor, City of Tulsa, City Hall, 200 Civic Center, Tulsa, OK 74103.	September 29, 2003.	405381
Wagoner (Case No. 02-06-1643P).	Unincorporated Areas.	April 24, 2003; May 1, 2003; <i>The Wagoner Tribune</i> .	The Honorable Allan Farley, Chairman, Wagoner County Board of Commissioners, 307 East Cherokee Street, Wagoner, OK 74467.	April 4, 2003 .....	400215
Texas: Collin (Case No. 02-06-1097P).	City of Allen .....	May 1, 2003; May 8, 2003; <i>The Allen American</i> .	The Honorable Stephen Terrell, Mayor, City of Allen, Allen Civic Plaza, 305 Century Parkway, Allen, TX 75013.	August 6, 2003 ..	480131

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Denton (Case No. 03-06-181P).	City of Argyle .....	July 10, 2003; July 17, 2003; <i>The Lake City Sun</i> .	The Honorable Yvonne A. Jenkins, Mayor, City of Argyle, 506 North Highway 377, Argyle, TX 76226.	June 13, 2003 ....	480775
Tarrant (Case No. 03-06-849P).	City of Arlington	July 9, 2003; July 16, 2003; <i>Arlington Morning News</i> .	The Honorable Elzie Odom, Mayor, City of Arlington, 101 West Abram Street, Box 231, Arlington, TX 76004-0231.	June 25, 2003 ....	485454
Bexar (Case No. 02-06-2298P).	Unincorporated Areas.	June 30, 2003; July 7, 2003; <i>San Antonio Express News</i> .	The Honorable Nelson W. Wolff, Judge, Bexar County, Bexar County Courthouse, 100 Dolorosa, Suite 120, San Antonio, TX 78205.	June 6, 2003 .....	480035
Dallas (Case No. 02-06-2053P).	City of Carrollton	May 2, 2003; May 9, 2003; <i>Northwest Morning News</i> .	The Honorable Mark Stokes, Mayor, City of Carrollton, 1945 E. Jackson Road, Carrollton, TX 75006.	April 3, 2003 .....	480167
Dallas (Case No. 03-06-844P).	City of Carrollton	June 25, 2003; July 2, 2003; <i>Carrollton Leader</i> .	The Honorable Mark Stokes, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, TX 75006.	October 1, 2003	480167
Williamson (Case No. 02-06-1089P).	City of Cedar Park.	July 11, 2003; July 18, 2003; <i>The Hill Country News</i> .	The Honorable Bob Young, Mayor, City of Cedar Park, 600 North Bell Boulevard, Cedar Park, TX 78613.	October 17, 2003	481282
Brazos (Case No. 03-06-102P).	City of College Station.	July 24, 2003; July 31, 2003; <i>The Eagle</i> .	The Honorable Ron Silvia, Mayor, City of College Station, P.O. Box 9960, College Station, TX 77842.	October 30, 2003	480083
Collin (Case No. 02-06-1413P).	Unincorporated Areas.	June 25, 2003; July 2, 2003; <i>Plano Star Courier</i> .	The Honorable Ron Harris, Collin County Judge, 210 South McDonald Street, McKinney, TX 75069.	October 1, 2003	480130
Dallas (Case No. 03-06-844P).	City of Coppell ...	June 25, 2003; July 2, 2003; <i>Coppell Gazette</i> .	The Honorable Doug Stover, Mayor, City of Coppell, 255 Parkway Boulevard, P.O. Box 9478, Coppell, TX 75019.	October 1, 2003	480170
Dallas (Case No. 03-06-447P).	City of Dallas .....	May 1, 2003; May 8, 2003; <i>Dallas Morning News</i> .	The Honorable Laura Miller, Mayor, City of Dallas, 1500 Marilla Street, City Hall, Dallas, TX 75201.	April 3, 2003 .....	480171
Denton (Case No. 03-06-181P).	City of Denton ....	July 10, 2003; July 17, 2003; <i>Denton Record Chronicle</i> .	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, TX 76201.	June 13, 2003 ....	480194
Hidalgo (Case No. 03-06-153P).	City of Edinburg	May 28, 2003; June 4, 2003; <i>Edinburg Daily Review</i> .	The Honorable Richard Garcia, Mayor, City of Edinburg, P.O. Box 1079, Edinburg, TX 78450-1079.	September 3, 2003.	480338
Hidalgo (Case No. 03-06-153P).	Unincorporated Areas.	May 28, 2003; June 4, 2003; <i>Edinburg Daily Review</i> .	The Honorable Raman Garcia, Judge, Hidalgo County, P.O. Box 1356, Edinburg, TX 78540-1356.	September 3, 2003.	480334
El Paso (Case No. 03-06-107P).	City of El Paso ...	May 21, 2003; May 28, 2003; <i>El Paso Times</i> .	The Hon. Raymond C. Caballero, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, TX 79901.	May 2, 2003 .....	480214
El Paso (Case No. 02-06-1458P).	City of El Paso ...	June 24, 2003; July 1, 2003; <i>El Paso Times</i> .	The Hon. Raymond C. Caballero, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, TX 79901.	June 5, 2003 .....	480214
Tarrant (Case No. 03-06-411P).	City of Euless ....	April 17, 2003; April 24, 2003; <i>Fort Worth Star Telegram</i> .	The Honorable Mary Saleh, Mayor, City of Euless, 201 North Ector Drive, Euless, TX 76039-3595.	April 2, 2003 .....	480593
Collin (Case No. 02-06-1413P).	Town of Fairview	June 25, 2003; July 2, 2003; <i>Plano Star Courier</i> .	The Honorable Don Phillips, Mayor, Town of Fairview, 500 S. Highway 5, Fairview, TX 75069.	October 1, 2003	481069
Fort Bend (Case No. 02-06-2301P).	Unincorporated Areas.	July 23, 2003; July 30, 2003; <i>Fort Bend Star</i> .	The Honorable James C. Adolphus, Judge, Fort Bend County, 301 Jackson Street, Suite 719, Richmond, TX 77469.	October 29, 2003	480228

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tarrant (Case No. 02-06-2303P).	City of Fort Worth.	July 21, 2003; July 28, 2003; <i>The Star Telegram</i> .	The Hon. Michael J. Moncrief, Mayor, City of Fort Worth, City Hall, 1000 Throckmorton Street, Fort Worth, TX 76102-6311.	July 8, 2003 .....	480596
Tarrant (Case No. 03-06-448P).	City of Fort Worth.	June 30, 2003; July 7, 2003; <i>The Star Telegram</i> .	The Hon. Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	October 6, 2003	480596
Tarrant (Case No. 02-06-1714P).	City of Fort Worth.	April 17, 2003; April 24, 2003; <i>The Star Telegram</i> .	The Hon. Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	July 24, 2003 .....	480596
Collin (Case No. 03-06-043P).	City of Frisco .....	June 12, 2003; June 19, 2003; <i>Frisco Enterprise</i> .	The Honorable Mike Simpson, Mayor, City of Frisco, P.O. Box 1100, Frisco, TX 75034.	May 23, 2003 .....	480134
Tarrant (Case No. 02-06-1719P).	City of Grapevine	April 17, 2003; April 24, 2003; <i>The Grapevine Sun</i> .	The Honorable William D. Tate, Mayor, City of Grapevine, 200 S. Main Street, P.O. Box 95104, Grapevine, TX 76051.	April 3, 2003 .....	480598
Dallas (Case No. 02-06-2315P).	City of Irving .....	July 10, 2003; July 17, 2003; <i>The Irving Morning News</i> .	The Honorable Joe H. Putnam, Mayor, City of Irving, 825 West Irving Boulevard, Irving, Texas 75060.	June 24, 2003 ....	480180
Gregg and Harrison (Case No. 02-06-1532P).	City of Longview	June 30, 2003; July 7, 2003; <i>Longview News Journal</i> .	The Honorable Murray Moore, Mayor, City of Longview, P.O. Box 1952, Longview, TX 75606.	October 6, 2003	480264
Harris (Case No. 02-06-584P).	Unincorporated Areas.	May 14, 2003; May 21, 2003; <i>The Houston Chronicle</i> .	The Honorable Robert A. Eckels, Judge, Harris County, 1001 Preston, Suite 911, Houston, TX 77002.	April 18, 2003 ....	480287
Dallas (Case No. 03-06-1009P).	Town of Highland Park.	May 21, 2003; May 28, 2003; <i>Park Cities Morning News</i> .	The Hon. William D. White, Jr., Mayor, Town of Highland Park, Town Hall, 4700 Drexel Drive, Highland Park, TX 75205.	April 30, 2003 ....	480178
Harris (Case No. 02-06-584P).	City of Houston ..	May 14, 2003; May 21, 2003; <i>The Houston Chronicle</i> .	The Honorable Lee P. Brown, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	April 18, 2003 ....	480296
Tarrant (Case No. 02-06-236P).	City of Hurst .....	April 22, 2003; April 29, 2003; <i>The Star Telegram</i> .	The Honorable William D. Souder, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, TX 76054.	July 29, 2003 .....	480601
Hays (Case No. 02-06-2442P).	City of Kyle .....	April 23, 2003; April 30, 2003; <i>The Kyle Eagle</i> .	The Honorable James L. Adkins, Mayor, City of Kyle, 102 Briarwood Circle, Kyle, TX 78640.	April 2, 2003 .....	481108
Dallas (Case No. 02-06-2623P).	City of Lancaster	June 12, 2003; June 19, 2003; <i>Lancaster Today</i> .	The Honorable Joe Tillotson, Mayor, City of Lancaster, P.O. Box 940, Lancaster, TX 75146.	September 18, 2003.	480182
Denton (Case No. 03-06-844P).	City of Lewisville	June 25, 2003; July 2, 2003; <i>Lewisville Leader</i> .	The Honorable Gene Carey, Mayor, City of Lewisville, P.O. Box 299002, 1197 West Main Street, Lewisville, TX 75029.	October 1, 2003	480195
Liberty (Case No. 01-06-1554P).	City of Liberty ....	May 21, 2003; May 28, 2003; <i>The Vindicator</i> .	The Honorable Bruce E. Halstead, Mayor, City of Liberty, 1829 Sam Houston, Liberty, TX 77575.	August 27, 2003	480441
Liberty (Case No. 01-06-1554P).	Unincorporated Areas.	May 21, 2003; May 28, 2003; <i>The Vindicator</i> .	The Honorable Lloyd Kirkham, Judge, Liberty County, 1923 Sam Houston, Suite 201, Liberty, TX 77575.	August 27, 2003	480438
Gregg Harrison (Case No. 02-06-1841P).	City of Longview	May 15, 2003; May 22, 2003; <i>Longview News Journal</i> .	The Honorable Earl Roberts, Mayor, City of Longview, P.O. Box 1952, Longview, TX 75606.	August 21, 2003	480264
Tarrant (Case No. 02-06-1674P).	City of Mansfield	June 12, 2003; June 19, 2003; <i>Mansfield News Mirror</i> .	The Honorable David Harry, Mayor, City of Mansfield, No. 2 Brookway Court, Mansfield, TX 76063.	September 18, 2003.	480606
Dallas (Case No. 03-06-682P).	City of Mesquite	May 22, 2003; May 29, 2003; <i>Mesquite Morning News</i> .	The Honorable Mike Anderson, Mayor, City of Mesquite, P.O. Box 850137, Mesquite, TX 75185.	May 2, 2003 .....	485490

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Brazoria (Case No. 03-06-176P).	City of Pearland	June 25, 2003; July 2, 2003; <i>Pearland Reporter News</i> .	The Honorable Thomas Reid, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, TX 77581.	July 11, 2003 ....	480077
Fort Bend (Case No. 02-06-2301P).	City of Rosenberg.	July 23, 2003; July 30, 2003; <i>The Herald Coaster</i> .	The Honorable Joe M Gurecky, Mayor, City of Rosenberg, P.O. Box 32, Rosenberg, TX 77471-0032.	October 29, 2003	480232
Williamson (Case No. 03-06-679P).	City of Round Rock.	April 17, 2003; April 24, 2003; <i>Round Rock Leader</i> .	The Honorable Nyle Maxwell, Mayor, City of Round Rock, 221 East Main Street, Round Rock, TX 78664.	April 2, 2003 .....	481048
Tarrant (Case No. 03-06-152P).	Unincorporated Areas.	May 21, 2003; May 28, 2003; <i>The Star Telegram</i> .	The Honorable Tom Vandergriff, Judge, Tarrant County, 100 East Weatherford Street, Fort Worth, TX 76196.	August 27, 2003	480582
Wisconsin: Richland (Case No. 02-05-3964P).	City of Richland Center.	June 19, 2003; June 26, 2003; <i>The Richland Observer</i> .	The Honorable Rita Kidd, Mayor, City of Richland Center, 450 South Main Street, Richland Center, WI 53581.	May 29, 2003 ....	555576

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

Dated: September 10, 2003.

**Anthony S. Lowe,**

*Mitigation Division Director, Emergency Preparedness and Response Directorate.*

[FR Doc. 03-23987 Filed 9-18-03; 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-percent-annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

**FOR FURTHER INFORMATION CONTACT:**

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.

These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification..

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and 44 CFR part 67.

The Federal Emergency Management Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and 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 modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

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

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

#### List of Subjects in 44 CFR Part 67

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

■ Accordingly, 44 CFR Part 67 is amended 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, § 67.11 [Amended]

3 CFR, 1979 Comp., p. 376.

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

Source of flooding and locaiton of <i>referenced elevation</i>	Elevation in feet (NAVD) Modified	Communities affected
<i>Brushy Bayou:</i> At confluence with Rambin Bayou .....	*168	FEMA Docket No. P7625, De Soto Parish, LA
Approximately 1.31 miles upstream of Interstate 49 .....	*174	
<i>Cypress Bayou:</i> At Wallace Lake Dam .....	*160	De Soto Parish, LA, Town of Stonewall, LA
Just upstream of U.S. Highway 171 .....	*178	
<i>Rambin Bayou:</i> Approximately 1.84 miles downstream of Louisiana Highway 175 .....	*160	De Soto Parish, LA
<i>Rambin Bayou:</i> Approximately 1.32 miles upstream of Southbound Interstate 49 .....	*172	FEMA Docket No. P7625, De Soto Parish, LA
<i>Sabine River:</i> Approximately 8.23 miles downstream of U.S. Highway 84 .....	*173	De Soto Parish, LA, Town of Logansport, LA
Approximately 2.44 miles upstream of U.S. Highway 84 .....	*191	

**ADDRESSES**

**De Soto Parish**

Maps are available for inspection at the De Soto Parish Courthouse, 101 Franklin Street, Mansfield, Louisiana.

**Town of Logansport**

Maps are available for inspection at the Town Hall, 309 Main Street, Logansport, Louisiana.

**Town of Stonewall**

Maps are available for inspection at the Town Hall, 1318 Highway 171, Stonewall, Louisiana.

\* North American Vertical Datum of 1988

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

Dated: September 10, 2003.

**Anthony S. Lowe,**

*Mitigation Division Director, Emergency Preparedness and Response Directorate.*

[FR Doc. 03-23990 Filed 9-18-03; 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-percent-annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the

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

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

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

**FOR FURTHER INFORMATION CONTACT:** 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. These modified elevations have been published in

newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and 44 CFR part 67.

The Federal Emergency Management Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and 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 modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of Section 3(f) of

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

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

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

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and record keeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

**PART 67—[AMENDED]**

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

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

**§ 67.11 [Amended]**

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

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. ◆Elevation in feet (NGVD) Modified *Elevation in feet (NAVD) Modified
MO .....	Northmoor (City), Platte County (FEMA Docket No. P7627).	Line Creek .....	Approximately 250 feet upstream of U.S. Highway 69.  At upstream corporate limits (approximately 225 feet downstream of Interstate 29).	* 767  * 770
Maps are available for inspection at City Hall, 4907 NW Waukomis Drive, Northmoor, Missouri.				
MO .....	Seneca (City), Newton County (FEMA Docket No. P7629).	Little Lost Creek .....	At confluence with Lost Creek .....	* 847
		Lost Creek .....	Approximately 2,650 feet upstream of St. Louise Street. Approximately 3,000 feet downstream of Cherokee Avenue. Approximately 3,900 feet upstream of Seneca Avenue.	* 872 * 847 * 862
Maps are available for inspection at the Seneca City Hall, 1303 Cherokee, Seneca, Missouri.				
OH .....	Brunswick (City), Medina County (FEMA Docket No. P7623).	Plum Creek .....	Just upstream of Carpenter Road .....	* 1,115
			Just downstream of Interstate 71 .....	* 1,122
Maps are available for inspection at the Brunswick City Hall, 4095 Center Street, Brunswick, Ohio.				
OK .....	Elk City (City), Beckham County (FEMA Docket No. P7623).	Elk Creek .....	Approximately 90 feet downstream of Hughes Access Road.	* 1,873.9
		East Fork Elk Creek .....	At confluence of East and West Forks Elk Creek. At confluence with Elk Creek .....	* 1,890.2 * 1,890.2
		West Fork Elk Creek .....	Approximately 1/2 mile upstream of Westbound Oklahoma Highway 34/66. At confluence with Elk Creek .....	* 1,930.6 * 1,890.2
		Tributary No. 1 .....	Approximately 0.3 miles upstream of Lori Lane. At confluence with West Fork Elk Creek ..	* 1,948.0 * 1,919.5
		Tributary No. 2 .....	Approximately 30 feet upstream of Hoover Drive. At confluence with Elk Creek .....	* 1,936.7 * 1,882.1
			Approximately 160 feet upstream of Cedar Village Trailer Park.	* 1,979.1
Maps are available for inspection at 120 South Jefferson Street, Elk City, Oklahoma.				



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

Dated: September 10, 2003.

**Anthony S. Lowe,**

*Mitigation Division Director, Emergency Preparedness and Response Directorate.*

[FR Doc. 03-23991 Filed 9-18-03; 8:45 am]

**BILLING CODE 6718-04-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2705; MM Docket No. 01-209; RM-10224]

#### Radio Broadcasting Services; Broken Bow, OK

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In response to a *Notice of Proposed Rule Making*, 66 FR 47433 (September 12, 2001), this *Report and Order* allots Channel 285A to Broken Bow, Oklahoma, and provides Broken Bow with its second local aural transmission service. This document also dismisses as defective a counterproposal filed by Entravision Holdings, LLC, the licensee of Station KTCY(FM), Pilot Point, Texas, proposing to, *inter alia*, upgrade its Channel 285C1 at Station KTCY to Channel 285C0. The coordinates for Channel 285A at Broken Bow are 34-04-41 North Latitude and 94-45-53 West Longitude. This allotment has a site restriction of 5.9 kilometers (3.7 miles) northwest of Broken Bow.

**DATES:** Effective October 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01-209, adopted September 3, 2003, and released September 5, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 reads 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 Oklahoma, is amended by adding Channel 285A at Broken Bow.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23920 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2625; MM Docket No. 00-169; RM-9953, RM-10160]

#### Radio Broadcasting Services; Granby and Oswego, New York

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This Memorandum Opinion and Order affirms action in a Report and Order 66 FR 51322 (October 9, 2001), that reallocated FM broadcast Channel 288A from Oswego, New York, to Granby, New York, thus providing Granby with its first local aural transmission service. This document dismisses as moot a petition for reconsideration of that Report and Order, filed by Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station WWDG(FM), DeRuyter, New York. Clear Channel's application had been considered as a counterproposal in the reallocation rulemaking proposal. The Report and Order had granted the requested reallocation after comparing its merits with those of Clear Channel's application. The application was returned to the Audio Division for further processing in order to give Clear Channel an opportunity to amend the application in such a manner that it could be granted. No such amendment was submitted. Further, the existing application was found to be defective. After giving the applicant an opportunity to correct the defect, the Commission's staff dismissed the

application for failure to respond to the staff letter that had explained the defect and had allowed the applicant a period of time to correct that defect. The Memorandum Opinion and Order ruled that since the application's dismissal has become final, the petition for reconsideration has been rendered moot.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Memorandum Opinion and Order in MM Docket No. 00-169, adopted September 3, 2003 and released September 5, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23921 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2636; MM Docket No. 03-36; RM-10431]

#### Radio Broadcasting Services; Woodbine, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** At the request of Harrison County Radio, this document dismisses its Petition for Rule Making proposing to allot Channel 293A to Woodbine, Iowa. See 68 FR 8728, published February 25, 2003. With this action, the proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau (202) 418-2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order* in MB Docket No. 03-36, adopted September 3, 2003, and released September 5, 2003. The full

text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23922 Filed 9-18-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2754; MB Docket No. 03-131 RM-10702]

#### Radio Broadcasting Services; Quartzsite, Arizona

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission allots Channel 290C2 at Quartzsite, Arizona, in response to a petition filed by Dana J. Puopolo. See 68 FR 36764 (June 19, 2003). Channel 290C2A can be allotted at Quartzsite, Arizona, with a site restriction 4.5 kilometers (2.8 miles) northeast of the community at coordinates 33-41-51 and 114-12-10. Although Mexican concurrence has been requested for the allotment of Channel 290C2 at Quartzsite, notification has not been received. Therefore, operation with the facilities specified for Channel 290C2 at Quartzsite herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement or if specifically objected to by Mexico. With this action, this proceeding is terminated. A filing window for channel 290C2 at Quartzsite will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

**DATES:** Effective October 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 03-131, adopted September 3, 2003, and released September 5, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

■ 2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel 290C2 at Quartzsite.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23925 Filed 9-18-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2825; MM Docket No. 01-281; RM-10287]

#### Radio Broadcasting Services; Atlanta, Forsyth, Gray, Irwinton, Washington, Watkinsville, GA.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** At the request of Southern Broadcasting Companies, Inc., licensee of Station WXKT, Channel 261A, Washington, Georgia, this document reallocates Channel 261A to Watkinsville, Georgia, and modifies the Station WXKT license to specify Watkinsville as the community of license. It also denies a conflicting proposal filed by New Tracks Media. See 66 FR 53192, published October 19, 2001. The

reference coordinates for the Channel 261A allotment at Watkinsville, Georgia, are 33-52-19 and 83-15-19. With this action, the proceeding is terminated.

**DATES:** Effective October 20, 2003

#### FOR FURTHER INFORMATION CONTACT:

Robert Hayne, Media Bureau (202) 418-2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order in MM Docket No. 01-281, adopted September 3, 2003, and released September 5, 2003. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 261A at Washington, and by adding Watkinsville, Channel 261A.

Federal Communications Commission.

**John A. Karousos**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23927 Filed 9-18-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2704]

#### Radio Broadcasting Services; Various Locations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, on its own motion, editorially amends the Table of

FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment, 4 FCC Rcd 2413 (1989), and the Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications, 8 FCC Rcd 4735 (1993).

**DATES:** Effective September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, adopted September 3, 2003, and released September 5, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy 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](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 295C and adding Channel 295C0 at Birmingham, by removing Channel 243C and adding Channel 243C0 at Birmingham, and by removing Channel 244C3 and adding Channel 244C2 at Pine Hill.

■ 3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 246C3 and adding Channel 246A at Green Valley.

■ 4. Section 73.202(b), the Table of FM Allotments under Georgia, is amended

by removing Channel 266C3 and adding Channel 226C2 at Blakely.<sup>1</sup>

■ 5. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 264C1 and adding Channel 266C0 at Harrisonville.<sup>2</sup>

■ 6. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 259C and adding Channel 259C1 at Hollywood.

■ 7. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 281C and adding Channel 281C0 at Edinburg.

■ 8. Section 73.202(b), the Table of FM Allotments under the Virgin Islands, is amended by removing Channel 269B1 and adding Channel 269A at Frederiksted.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23928 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 03-2715; MB Docket No. 03-119; RM-10694]

#### Radio Broadcasting Services; Savannah, Springfield & Tybee Island, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 280C2 for Channel 280C3 at Springfield, Georgia, reallots Channel 280C2 to Tybee Island, Georgia, and modifies the license for Station WSIS and reallots Channel 226C1 from Savannah, Georgia, to Springfield, Georgia, modifying the license for Station WEAS to specify operation at Springfield, in response to a petition filed by Cumulus Licensing Corp. See 68 FR 33668, June 5, 2003. The coordinates for Channel 280C2 at Tybee Island are 32-00-45 and 80-50-44. The coordinates for Channel 226C1 at Springfield are 32-02-48 and 81-20-27.

<sup>1</sup> The FM Table of Allotments shows Channel 266C3 at Blakely, Georgia, in lieu of Channel 226C3. Channel 226C3, not Channel 266C3, was allotted to Blakely in MM Docket No. 91-319. See 57 FR 5392, February 14, 1992.

<sup>2</sup> The FM Table of Allotments shows Channel 264C1 at Harrisonville, Missouri, in lieu of Channel 266C1. Channel 266C1 was substituted for Channel 264C1 at Harrisonville in MM Docket No. 89-96. See 54 FR 47773, November 17, 1989.

With this action, this proceeding is terminated.

**DATES:** Effective October 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418-2180

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and order, MB Docket No. 03-119, adopted September 3, 2003, and released September 5, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center, Portals II, 445 12th 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](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 280A and by adding Channel 226C1 at Springfield, by removing Channel 226C1 at Savannah, and by adding Tybee Island, Channel 280C2.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23923 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-P**

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 541**

[Docket No. NHTSA-2002-11443; Notice 02]

RIN 2127-AJ00

**Final Theft Data; Motor Vehicle Theft Prevention Standard**

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

**ACTION:** Publication of final theft data.

**SUMMARY:** This document publishes the final data on thefts of model year (MY) 2001 passenger motor vehicles that occurred in calendar year (CY) 2001. The final 2001 theft data indicate an increase in the vehicle theft rate experienced in CY/MY 2001. The final theft rate for MY 2001 passenger vehicles stolen in calendar year 2001 (3.26 thefts per thousand vehicles) increased by 12.8 percent from the theft rate for CY/MY 2000 (2.89 thefts per thousand vehicles) when compared to the theft rate experienced in CY/MY 2000. Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Mazyck, Office of Planning and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill this

statutory mandate, NHTSA has published theft data annually beginning with MYs 1983/84. Continuing to fulfill the section 33104(b)(4) mandate, this document reports the final theft data for CY 2001, the most recent calendar year for which data are available.

In calculating the 2001 theft rates, NHTSA followed the same procedures it used in calculating the MY 2000 theft rates. (For 2000 theft data calculations, see 67 FR 53756, August 19, 2002.) As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 2001 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2001 vehicles of that line stolen during calendar year 2001 by the total number of vehicles in that line manufactured for MY 2001, as reported to the Environmental Protection Agency (EPA).

The final 2001 theft data show an increase in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2000. The final theft rate for MY 2001 passenger vehicles stolen in calendar year 2001 increased to 3.26 thefts per thousand vehicles produced, an increase of 12.8 percent from the rate of 2.89 thefts per thousand vehicles experienced by MY 2000 vehicles in CY 2000. For MY 2001 vehicles, out of a total of 217 vehicle lines, 67 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994.) Of the 67 vehicle lines with a theft rate higher than 3.5826, 56 are passenger car lines, eight are multipurpose passenger vehicle lines, and none are light-duty truck lines.

On Tuesday, April 15, 2003, NHTSA published the preliminary theft rates for CY 2001 passenger motor vehicles in the **Federal Register** (68 FR 18181). The

agency tentatively ranked each of the MY 2001 vehicle lines in descending order of theft rate. The public was requested to comment on the accuracy of the data and to provide final production figures for individual vehicle lines. The agency used written comments to make the necessary adjustments to its data. As a result of the adjustments, some of the final theft rates and rankings of vehicle lines changed from those published in the April 2003 notice. The agency received written comments from DaimlerChrysler Corporation (DaimlerChrysler) and Volkswagen of America, Inc. (VW). In its comments, DaimlerChrysler informed the agency that the production volumes listed for the Chrysler Town & Country and the Chrysler Voyager lines were incorrect. Specifically, the production volume for the Chrysler Town and Country reflected the Town & Country all-wheel drive vehicles only. The production volume for the Chrysler Voyager reflected the total volume for the Voyager and Town & Country 2-wheel drive vehicles. In response to this comment, the production volumes for the Chrysler Town & Country and the Chrysler Voyager have been corrected and the final theft list has been revised accordingly. As a result of the correction, the Chrysler Town & Country previously ranked No. 1 with a theft rate of 22.9800, is now ranked No. 143 with a theft rate of 1.7196, and the Chrysler Voyager previously ranked No. 199 with a theft rate of 0.4605 is now ranked No. 120 with a theft rate of 2.1700.

Volkswagen also informed the agency that the production volumes for the Audi S4/Quattro and the Audi A6/Quattro were incorrect. Upon later review by Volkswagen, it was confirmed that the listed production volumes were not in error. Therefore, the production volumes will remain unchanged.

The following list represents NHTSA's final calculation of theft rates for all 2001 passenger motor vehicle lines. This list is intended to inform the public of calendar year 2001 motor vehicle thefts of model year 2001 vehicles and does not have any effect on the obligations of regulated parties under 49 U.S.C. Chapter 331, Theft Prevention.

## FINAL THEFT RATES OF MODEL YEAR 2001 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2001

No.	Manufacturer	Make/model (line)	Thefts 2001	Production (Mfr's) 2001	2001 theft rate (per 1,000 vehicles produced)
1	Daimler Chrysler	Dodge Intrepid	1,442	113,333	12.7236
2	General Motors	Chevrolet Metro	199	15,999	12.4383
3	Honda	Acura Integra	148	14,092	10.5024
4	DaimlerChrysler	Plymouth Neon	400	38,651	10.3490
5	DaimlerChrysler	Dodge Neon	1,047	101,410	10.3244
6	DaimlerChrysler	Dodge Stratus	1,115	109,015	10.2280
7	Mitsubishi	Mirage	447	48,393	9.2369
8	Suzuki	Esteem	152	18,713	8.1227
9	DaimlerChrysler	Chrysler LHS	86	11,413	7.5353
10	General Motors	Pontiac Firebird/Trans AM/Formula	149	20,084	7.4188
11	Mitsubishi	Galant	729	102,990	7.0784
12	General Motors	Chevrolet Camaro	193	28,278	6.8251
13	Mitsubishi	Montero	258	38,599	6.6841
14	General Motors	Pontiac Grand Am	1,192	182,220	6.5415
15	General Motors	Buick Regal	340	52,492	6.4772
16	Mitsubishi	Montero Sport	402	64,115	6.2700
17	Jaguar	S-Type	126	20,102	6.2680
18	Ford Motor Co.	Ford Escort	536	87,019	6.1596
19	Ford Motor Co.	Lincoln LS	256	41,817	6.1219
20	DaimlerChrysler	Chrysler 300M	228	37,284	6.1152
21	General Motors	Pontiac Sunfire	445	73,808	6.0292
22	Honda	Acura NSX	1	167	5.9880
23	Mitsubishi	Diamante	77	13,667	5.6340
24	Ford Motor Co.	Ford Mustang	869	155,039	5.6050
25	DaimlerChrysler	Chrysler Sebring	407	73,543	5.5342
26	KIA Motors	Optima	134	24,754	5.4133
27	DaimlerChrysler	Chrysler Concorde	147	28,030	5.2444
28	General Motors	Chevrolet Cavalier	1,136	217,438	5.2245
29	Suzuki	Vitara/Grand	281	53,810	5.2221
30	Toyota	Corolla	1,201	230,246	5.2162
31	Nissan	Altima	706	137,253	5.1438
32	General Motors	Chevrolet Malibu	956	186,788	5.1181
33	DaimlerChrysler	Chrysler Sebring Convertible	200	39,668	5.0418
34	Toyota	Lexus IS	155	30,959	5.0066
35	General Motors	Chevrolet Lumina	213	42,803	4.9763
36	General Motors	Oldsmobile Alero	548	112,455	4.8731
37	General Motors	Cadillac DeVille	428	87,909	4.8687
38	Isuzu	Trooper	91	18,818	4.8358
39	KIA Motors	Rio	276	57,340	4.8134
40	Mitsubishi	Eclipse	380	79,034	4.8081
41	Mazda	Millenia	85	17,969	4.7304
42	General Motors	Chevrolet Monte Carlo	324	68,518	4.7287
43	Audi	S4/Quattro	72	15,301	4.7056
44	Toyota	4Runner	373	83,052	4.4912
45	General Motors	GMC Jimmy S15/T15	209	46,905	4.4558
46	DaimlerChrysler	Chrysler Neon <sup>1</sup>	3	682	4.3988
47	Nissan	Maxima	447	102,260	4.3712
48	Hyundai	Sonata	204	46,989	4.3414
49	Rolls-Royce	Bentley Arnage	2	466	4.2918
50	General Motors	Oldsmobile Intrigue	168	39,491	4.2541
51	Jaguar	XK8	19	4,501	4.2213
52	General Motors	Chevrolet Prizm	209	50,141	4.1682
53	DaimlerChrysler	Jeep Cherokee/Grand	1,376	338,673	4.0629
54	Honda	Prelude	46	11,329	4.0604
55	General Motors	Oldsmobile Bravada	44	10,935	4.0238
56	General Motors	Pontiac Bonneville	175	43,842	3.9916
57	KIA Motors	Sephia/Spectra	296	74,516	3.9723
58	General Motors	Pontiac Grand Prix	466	117,647	3.9610
59	Mercedes-Benz	129 (SL-Class)	16	4,080	3.9216
60	Isuzu	Rodeo	242	62,963	3.8435
61	General Motors	Chevrolet Blazer S10/T10	629	163,771	3.8407
62	General Motors	Chevrolet Corvette	124	33,204	3.7345
63	KIA Motors	Sportage	215	57,927	3.7116
64	Ford Motor Co.	Lincoln Town Car	255	68,832	3.7047
65	Ford Motor Co.	Mercury Sable	364	98,867	3.6817
66	Daewoo	Leganza	73	20,112	3.6297
67	Ford Motor Co.	Ford Focus	964	267,470	3.6041
68	Toyota	Celica	126	35,540	3.5453

FINAL THEFT RATES OF MODEL YEAR 2001 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2001—  
Continued

No.	Manufacturer	Make/model (line)	Thefts 2001	Production (Mfr's) 2001	2001 theft rate (per 1,000 vehicles produced)
69	Ford Motor Co.	Ford Taurus	1,238	351,813	3.5189
70	Toyota	Lexus GS	105	29,858	3.5166
71	General Motors	Cadillac Seville	88	25,157	3.4980
72	Mercedes-Benz	215 (CL-Class)	11	3,162	3.4788
73	Suzuki	Swift	15	4,375	3.4286
74	Mazda	626	173	51,355	3.3687
75	BMW	Z8	3	895	3.3520
76	Hyundai	Accent	256	77,491	3.3036
77	Nissan	Infiniti Q45	6	1,846	3.2503
78	Daewoo	Lanos	69	21,626	3.1906
79	Toyota	Camry	1,123	353,219	3.1793
80	General Motors	Chevrolet Impala	597	188,248	3.1713
81	Nissan	Sentra	335	106,549	3.1441
82	Ford Motor Co.	Mercury Mountaineer	45	14,439	3.1166
83	Toyota	Lexus LX	31	9,967	3.1103
84	DaimlerChrysler	Chrysler Prowler	5	1,632	3.0637
85	Ford Motor Co.	Ford Explorer	1,050	344,002	3.0523
86	DaimlerChrysler	Dodge Caravan/Grand	649	218,302	2.9729
87	Jaguar	XJ8	17	5,960	2.8523
88	Hyundai	Tiburon	64	22,713	2.8178
89	General Motors	Oldsmobile Aurora	140	50,034	2.7981
90	General Motors	Saturn LS	222	79,562	2.7903
91	Nissan	Frontier Pickup	286	102,545	2.7890
92	Mercedes-Benz	220 (S-Class)	85	31,977	2.6582
93	Ford Motor Co.	Ford Ranger Pickup	708	266,960	2.6521
94	BMW	3	307	117,873	2.6045
95	Daewoo	Nubira	35	13,450	2.6022
96	Volvo	C70	14	5,462	2.5632
97	Nissan	Infiniti G20	18	7,087	2.5399
98	Jaguar	XKR	4	1,588	2.5189
99	DaimlerChrysler	Jeep Wrangler	163	66,366	2.4561
100	Honda	Acura 3.2 CL	94	38,679	2.4303
101	General Motors	Chevrolet Astro Van	104	42,909	2.4237
102	General Motors	Buick Park Avenue	88	36,407	2.4171
103	Jaguar	XJR	3	1,256	2.3885
104	Hyundai	Santa Fe	121	51,088	2.3685
105	Toyota	Lexus LS	75	31,738	2.3631
106	Hyundai	XG	47	19,894	2.3625
107	General Motors	Buick Lesabre	327	140,202	2.3323
108	Honda	S2000	23	9,945	2.3127
109	Mazda	Protege	110	47,754	2.3035
110	Honda	Passport	39	16,999	2.2943
111	Mercedes-Benz	208 (CLK-Class)	34	14,940	2.2758
112	General Motors	GMC Safari Van	33	14,549	2.2682
113	General Motors	Buick Century	285	126,295	2.2566
114	Ford Motor Co.	Mercury Cougar	58	25,810	2.2472
115	Audi	TT/Quattro	47	21,022	2.2358
116	BMW	7	57	25,548	2.2311
117	DaimlerChrysler	Plymouth Prowler	3	1,353	2.2173
118	Volvo	S40	69	31,145	2.2154
119	Jaguar	Vanden Plas	8	3,617	2.2118
120	DaimlerChrysler	Chrysler Voyager	78	35,944	2.1700
121	General Motors	Chevrolet S10/T10 Pickup	354	166,708	2.1235
122	Ford Motor Co.	Ford F150 Pickup	293	138,481	2.1158
123	Honda	Acura 3.5 RL	7	3,312	2.1135
124	Volvo	S80	53	25,203	2.1029
125	Subaru	Impreza	19	9,205	2.0641
126	Toyota	Tacoma Pickup	330	160,222	2.0596
127	Ford Motor Co.	Mercury Grand Marquis	215	104,890	2.0498
128	Hyundai	Elantra	217	106,418	2.0391
129	General Motors	GMC Sonoma Pickup	86	42,536	2.0218
130	General Motors	Saturn SC	94	46,557	2.0190
131	Toyota Tundra	Pickup	38	19,191	1.9801
132	Toyota	RAV4	172	87,108	1.9746
133	General Motors	Saturn SL	214	108,946	1.9643
134	Toyota	Echo	103	52,694	1.9547
135	Nissan	Pathfinder	172	89,836	1.9146

FINAL THEFT RATES OF MODEL YEAR 2001 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2001—  
Continued

No.	Manufacturer	Make/model (line)	Thefts 2001	Production (Mfr's) 2001	2001 theft rate (per 1,000 vehicles produced)
136	BMW	5	76	40,591	1.8723
137	Porsche	911	20	10,931	1.8297
138	Volkswagen	Jetta	281	153,706	1.8282
139	Nissan	Infiniti I30	70	39,505	1.7719
140	Honda	Civic	603	341,401	1.7663
141	Nissan	Xterra	170	96,255	1.7661
142	Honda	Accord	665	379,508	1.7523
143	Daimler-Chrysler	Chrysler Town & Country MPV	248	144,218	1.7196
144	Volkswagen	Golf/GTI	56	32,736	1.7107
145	Volvo	V40	7	4,109	1.7036
146	Saab	9-5	39	23,016	1.6945
147	Mercedes-Benz	ML	68	40,257	1.6891
148	Mazda	B-Series Pickup	46	27,490	1.6733
149	Audi	A4/Quattro	58	35,023	1.6561
150	Nissan	Infiniti QX4	59	36,778	1.6042
151	Daimler-Chrysler	Chrysler PT Cruiser	279	176,326	1.5823
152	General Motors	Cadillac Catera	18	11,568	1.5560
153	General Motors	Pontiac Aztek	63	41,111	1.5324
154	Toyota	Lexus ES	54	35,282	1.5305
155	Ford Motor CO	Ford Windstar Van	275	179,687	1.5304
156	Volvo	V70	25	16,408	1.5236
157	General Motors	Saturn SW	6	3,973	1.5102
158	Ford Motor CO	Lincoln Continental	32	21,341	1.4995
159	Isuzu	Vehicross	2	1,347	1.4848
160	Audi	A6/Quattro	39	26,592	1.4666
161	Porsche	Boxster	19	12,979	1.4639
162	Daimler-Chrysler	Dodge Dakota Pickup	230	158,303	1.4529
163	Toyota	MR2 Spyder	10	6,950	1.4388
164	Ford Motor CO	Ford Escape	214	151,295	1.4145
165	General Motors	Pontiac Montana Van	71	50,437	1.4077
166	Toyota	Lexus RX	121	86,206	1.4036
167	Mercedes-Benz	170 (SLK-Class)	22	16,294	1.3502
168	Mercedes-Benz	210 (E-Class)	67	49,628	1.3500
169	Honda	Acura 3.2 TL	46	34,860	1.3196
170	General Motors	Chevrolet Venture Van	110	85,346	1.2889
171	Audi	S8/Quattro	1	814	1.2285
172	Daimler-Chrysler	Dodge Viper	2	1,643	1.2173
173	Nissan	Quest Van	37	31,402	1.1783
174	Toyota	Sienna Van	99	85,794	1.1539
175	Volkswagen	New Beetle	83	72,350	1.1472
176	Mercedes-Benz	203 (C-Class)	36	32,931	1.0932
177	Volkswagen	Passat	90	82,870	1.0860
178	Volkswagen	Cabrio	16	15,479	1.0337
179	Toyota	Avalon	79	77,925	1.0138
180	General Motors	Chevrolet Tracker	108	108,204	0.9981
181	General Motors	Oldsmobile Silhouette Van	36	36,278	0.9923
182	Ford Motor CO	Mercury Villager Van	18	18,169	0.9907
183	Volvo	S60	32	33,335	0.9600
184	Saab	9-3	20	20,920	0.9560
185	Volvo	XC	25	27,082	0.9231
186	Audi	A8/Quattro/L	2	2,177	0.9187
187	Honda	CR-V	99	117,003	0.8461
188	Volkswagen	Eurovan/Camper	3	3,652	0.8215
189	BMW	M/Z3	15	18,627	0.8053
190	General Motors	Cadillac Eldorado	8	10,289	0.7775
191	Mazda	Tribute	42	55,827	0.7523
192	Toyota	Highlander	52	69,706	0.7460
193	Subaru	Legacy/Outback	73	98,623	0.7402
194	Honda	Acura MDX	30	41,081	0.7303
195	Mazda	MX-5 Miata	12	18,040	0.6652
196	Mazda	MPV	23	36,356	0.6326
197	Subaru	Forester	37	63,015	0.5872
198	Ford Motor CO	Ford LTD/Crown Victoria	50	89,572	0.5582
199	General Motors	Saturn LW	5	9,223	0.5421
200	Toyota	Prius	7	15,773	0.4438
201	Audi	Allroad/Quattro	3	6,840	0.4386
202	Honda	Odyssey Minivan	54	123,522	0.4372

FINAL THEFT RATES OF MODEL YEAR 2001 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2001—  
Continued

No.	Manufacturer	Make/model (line)	Thefts 2001	Production (Mfr's) 2001	2001 theft rate (per 1,000 vehicles produced)
203	Quantum Tech	Cavalier	1	2,417	0.4137
204	Honda	Insight	1	3,426	0.2919
205	Aston-Martin	DB-7/Vantage/Coupe/Volante	0	348	0.0000
206	Rolls-Royce	Bentley Azure	0	100	0.0000
207	Rolls-Royce	Bentley Continental R	0	22	0.0000
208	Rolls-Royce	Bentley Continental T	0	8	0.0000
209	General Motors	Cadillac Funeral Coach/Hearse	0	2,203	0.0000
210	Ferrari	360	0	723	0.0000
211	Ferrari	456	0	64	0.0000
212	Ferrari	550	0	290	0.0000
213	Lamborghini	DB132/144 Diablo	0	150	0.0000
214	Rolls-Royce	Corniche	0	45	0.0000
215	Rolls-Royce	Park Ward	0	28	0.0000
216	Rolls-Royce	Silver Seraph	0	51	0.0000
217	Mitsubishi	<sup>2</sup> Nativa	0	1,653	0.0000

<sup>1</sup> This vehicle was manufactured under the Chrysler nameplate for sale in a U.S. Territories only (Guam, American Samoa, Puerto Rico) and the Virgin Islands, (St. Thomas & St. Croix).

<sup>2</sup> This vehicle was manufactured for sale only in Puerto Rico and represents the U.S. version of the Montero Sport line.

Issued on: September 12, 2003.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 03-23874 Filed 9-17-03; 8:45 am]

BILLING CODE 4910-59-P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Parts 571 and 596**

[Docket NHTSA-03-15438]

RIN 2127-AH99

**Federal Motor Vehicle Safety Standards; Child Restraint Systems; Child Restraint Anchorage Systems Phase-In Reporting Requirements; Correction**

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to a final rule (Docket NHTSA-03-15438) that was published Friday, June 27, 2003. The rule responded to petitions for reconsideration of final rules pertaining to Federal Motor Vehicle Safety

Standard (FMVSS) No. 225, Child Restraint Anchorage Systems.

**EFFECTIVE DATE:** September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Deirdre R. Fujita, Office of the Chief Counsel, NHTSA, telephone (202) 366-2992; fax (202) 366-3820, 400 Seventh St., SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** The final rule that is the subject of this correction responded to petitions for reconsideration of the agency's March 1999 final rule establishing Federal Motor Vehicle Safety Standard No. 225, *Child Restraint Anchorage Systems* (49 CFR 571.225), and of the agency's previous responses to petitions, published in August 1999 and July 2000.

**Need for Correction**

As published, the final rule contains errors that are in need of clarification. One error leads to unclear regulatory text that the agency wants to correct prior to October 1, when 49 CFR part 571 is annually revised. Other errors are more minor and will be corrected in a subsequent **Federal Register** document that responds to petitions for reconsideration received on the June 27, 2003 final rule (68 FR 38208).

**Correction of Publication.**

■ Accordingly, the publication on June 27, 2003 (68 FR 38208, FR Doc. 03-15953) amending FMVSS No. 225 is corrected as follows:

**§ 596.5 [Corrected]**

■ On page 38231 in the first column, in instruction 4, line 2, the phrase "introductory test" [sic] is removed.

■ On page 38231 in the first column, § 596.5, "Response to inquiries" is corrected to read:

**§ 596.5 Response to inquiries.**

At anytime during the production years ending August 31, 2000, August 31, 2001, August 31, 2002, and August 31, 2005, each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model and vehicle identification number) that have been certified as complying with Standard No. 225 (49 CFR 571.225). The manufacturer's designation of a vehicle as a certified vehicle is irrevocable.

Issued on September 12, 2003.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 03-23880 Filed 9-18-03; 8:45 am]

BILLING CODE 4910-59-P



# Proposed Rules

Federal Register

Vol. 68, No. 182

Friday, September 19, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-365-AD]

RIN 2120-AA64

#### Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require replacing the dual shuttle valve in the number 2 hydraulic system with a new improved valve; and, for certain airplanes, modifying the hydraulic system. This action is necessary to prevent failure of the dual shuttle valve in the number 2 hydraulic system, with reduced maximum elevator rate on the left side, which could result in pilot induced pitch oscillation, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by October 20, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-365-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2001-NM-365-AD" in the subject line and need not be submitted

in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S-581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-365-AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-365-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that fatigue testing revealed that the body of the dual shuttle valve in the number 2 hydraulic system may crack at the pressure side. This cracking may cause the loss of hydraulic pressure to the left inboard elevator, resulting in reduced maximum elevator rate on the failed side, for which the flight crew could attempt to compensate. This condition, if not corrected, could result in pilot induced pitch oscillation, and consequent reduced controllability of the airplane.

#### Explanation of Relevant Service Information

Saab has issued Service Bulletin 2000-29-020, dated August 14, 2001. The service bulletin describes procedures for replacing the dual shuttle valve in the number 2 hydraulic system with a new, improved valve on airplanes that have had Modification 5952 implemented.

Saab has also issued Service Bulletin 2000-29-010, Revision 02, dated August 14, 2001, which describes procedures for the completion of Modification 5952. That modification presents changes to let the integrated hydraulic package (IHP) operate in a standby mode. The service bulletin also introduces a dual shuttle valve in the IHP system, changes the position of the check valve, replaces the IHP, installs new tubing and connections, and introduces a new filter.

The LFV classified Saab Service Bulletin 2000-29-020 as mandatory and issued Swedish airworthiness directive 1-164, dated August 17, 2001, to ensure

the continued airworthiness of these airplanes in Sweden. The LfV approved Saab Service Bulletin 2000-29-010, Revision 02.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

#### FAA's Conclusions

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

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

#### Differences Between the Proposed Rule, Swedish Airworthiness Directive, and the Service Bulletins

Where this proposed AD would require completion of Saab Service Bulletin 2000-29-020, dated August 14, 2001, and Saab Service Bulletin 2000-29-010, Revision 02, dated August 14, 2001, the LfV has specifically mandated only Service Bulletin 2000-29-020. However, that service bulletin specifies that Service Bulletin 2000-29-010 must be done before Service Bulletin 2000-29-020, so Service Bulletin 2000-29-010 may be implicitly required by the LfV.

As a result, the proposed compliance time differs from that of the Swedish airworthiness directive. This proposed AD would require that the valve be replaced per Service Bulletin 2000-29-020 within 15,000 flight hours after the effective date of the AD if Service Bulletin 2000-29-010 has been incorporated. If Service Bulletin 2000-29-010 has not been incorporated, this proposed AD would require its accomplishment within 90 days, and replacement of the valve within 15,000 flight hours thereafter. However, the Swedish airworthiness directive does

not specifically mandate incorporation of Service Bulletin 2000-29-010 and therefore does not provide a compliance time for that action.

Saab Service Bulletin 2000-29-010, Revision 02, dated August 14, 2001, also recommends accomplishment of the actions in Saab Service Bulletins 2000-29-008, 2000-29-009, 2000-29-011, and 2000-29-013. However, this proposed AD would not require those additional actions.

#### Changes to 14 CFR part 39/Effect on the Proposed 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. Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

#### 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 3 airplanes of U.S. registry would be affected by this proposed AD.

The proposed replacement would take approximately 4 work hours per airplane, at an average labor rate of \$65 per work hour. Parts would be provided to the operator at no charge. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be \$780, or \$260 per airplane.

The proposed modification, if required, would take approximately 60 work hours per airplane at an average labor rate of \$65 per work hour. Parts would be provided to the operator at no charge. Based on these figures, the cost impact of the proposed modification is estimated to be \$3,900 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed 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 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 proposal would not have federalism implications under Executive Order 13132.

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**SAAB Aircraft AB:** Docket 2001-NM-365-AD.

*Applicability:* Model SAAB 2000 series airplanes, as listed in Saab Service Bulletin 2000-29-020, dated August 14, 2001; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the dual shuttle valve in the number 2 hydraulic system, with reduced maximum elevator rate on the left side, which could result in pilot induced pitch oscillation, and consequent reduced controllability of the airplane, accomplish the following:

#### Replacement: Modified Airplanes

(a) For airplanes that have been modified per Saab Service Bulletin 2000-29-010, Revision 02, dated August 14, 2001 (Modification 5952): Within 15,000 flight hours after completing Modification 5952, replace the dual shuttle valve in the number 2 hydraulic system with a new, improved valve, per the Accomplishment Instructions of Saab Service Bulletin 2000-29-020, dated August 14, 2001.

#### Modification and Replacement: Unmodified Airplanes

(b) For airplanes that have not been modified per Saab Service Bulletin 2000-29-010, Revision 02, dated August 14, 2001 (Modification 5952): Do paragraphs (b)(1) and (b)(2) of this AD within the times specified.

(1) Within 90 days after the effective date of this AD, modify the hydraulic system, per the Accomplishment Instructions of Saab Service Bulletin 2000-29-010, Revision 02, dated August 14, 2001.

(2) Within 15,000 flight hours after accomplishing paragraph (b)(1) of this AD, replace the dual shuttle valve in the number 2 hydraulic system with a new, improved valve, per the Accomplishment Instructions of Saab Service Bulletin 2000-29-020, dated August 14, 2001.

**Note 1:** Although Saab Service Bulletin 2000-29-020, dated August 14, 2001; and Saab Service Bulletin 2000-29-010, Revision 02, dated August 14, 2001; specify sending removed or replaced parts to the manufacturer or the vendor, this AD does not include such requirements.

#### Parts Installation

(c) As of the effective date of this AD, no person may install a dual shuttle valve, part number 7329114-721, on any airplane.

#### Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, FAA, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in Swedish airworthiness directive 1-164, dated August 17, 2001.

Issued in Renton, Washington, on September 15, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03-23939 Filed 9-18-03; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-306-AD]

RIN 2120-AA64

#### **Airworthiness Directives; McDonnell Douglas Model DC-9-10, DC-9-20, DC-9-30, DC-9-40, and DC-9-50 Series Airplanes; and Model DC-9-81 (MD-81) and DC-9-82 (MD-82) Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas transport category airplanes, that currently requires an inspection for chafing and/or abrasion, repair if necessary, and modification of the power feeder cable installation. This action would require inspection for proper installation, damage, or abrasion of the power feeder cables and trough installations; proper installation of caterpillar grommets in the lightening holes; and repair if necessary. This action also would require modification of the power feeder cable installation and add airplanes to the applicability of the AD. The actions specified by the proposed AD are intended to prevent a possible loss of electrical bus power, which could result in a potential fire ignition source and consequent fire in the cabin. This action is intended to address the identified unsafe condition. **DATES:** Comments must be received by November 3, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-306-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2002-NM-306-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5344; fax (562) 627-5210.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket Number 2002-NM-306-AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-306-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

On January 10, 1986, the FAA issued AD 85-25-06, amendment 39-5177 (50 FR 49833, December 5, 1985), applicable to certain McDonnell Douglas Model DC-9 and C-9 (military) series airplanes, to require inspection of the power feeder cable installation, repair if necessary, and modification of the power feeder cable installation between the electrical power center and the respective generators. That action was prompted by reports of chafing and/or abrasion of the power feeder cables and six instances of shorted 1 power feeder cables. The chafing and/or abrasion was attributed to power feeder cables riding against bulkhead feedthroughs, floor panel clipnuts, and lightening holes in transition areas below floor level. The requirements of that AD are intended to eliminate a potential fire ignition source from the generator power feeder cable installation.

#### Actions Since Issuance of Previous Rule

Since the issuance of that AD, the manufacturer has advised the FAA that additional airplanes have been identified that also may be subject to the identified unsafe condition.

#### Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin (ASB) DC9-24A078, Revision 04, dated May 25, 2000, which describes procedures for a general visual inspection for damage such as sharp object penetration or abrasion damage of the power feeder cables, a general visual inspection of the power feeder cables, troughs and associated hardware for secure and proper installation, and repair if necessary. That ASB also describes procedures for installing grommets on all lightening holes where the power feeder cables pass through, and performing a generator control relay test on any repaired power feeder cables. For certain airplanes, that ASB also describes modification of the power feeder cable installation (including installing lightening hole grommets,

replacing clipnuts with clipnuts specified in the ASB, as applicable, and performing a generator circuit relay test). Additionally, that ASB adds airplanes to the effectivity of the ASB. Accomplishment of the actions specified in the ASB is intended to adequately address the identified unsafe condition.

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 85-25-06 to require general visual inspections for proper installation, damage, or abrasion of the power feeder cables and trough installations; proper installation of caterpillar grommets in the lightening holes; and repair if necessary. For certain airplanes, this proposed AD would require modification, as described previously, of the power feeder cable installation. The actions would be required to be accomplished in accordance with the service bulletin described previously.

#### Explanation of Change to Applicability

The FAA has revised the applicability of this proposed AD to reference the appropriate models as listed in the current published Type Certification Data Sheet.

#### Changes to 14 CFR Part 39/Effect on the Proposed 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 (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

#### 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 1,050 airplanes of the affected design in the

worldwide fleet. The FAA estimates that 475 airplanes of U.S. registry would be affected by this proposed AD.

The new actions that are proposed in this AD action would take approximately (depending on the applicable airplane group specified in the service bulletin) from 1 work hour per airplane to 25 work hours per airplane to accomplish, at an average labor rate of \$65 per work hour. Certain airplane groups (1, 2, and 7) do not require parts. For certain other airplane groups (5 and 6), required parts would cost approximately \$291 to \$428 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be between \$65 per airplane for certain airplane groups, and \$2,053 per airplane for certain other airplane groups.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed 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 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 proposal would not have federalism implications under Executive Order 13132.

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39–5177 (50 FR 49833, December 5, 1985), and by adding a new airworthiness directive (AD), to read as follows:

**McDonnell Douglas:** Docket 2002–NM–306–AD. Supersedes AD 85–25–06, Amendment 39–5177.

**Applicability:** Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, and DC–9–15F airplanes; Model DC–9–21 airplanes; Model DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A and C–9B), DC–9–33F, DC–9–34 and DC–9–34F airplanes; Model DC–9–41 airplanes; Model DC–9–51 airplanes; and Model DC–9–81 (MD–81) and DC–9–82 (MD–82) airplanes; as specified in McDonnell Douglas Alert Service Bulletin DC9–24A078, Revision 04, dated May 25, 2000; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent a possible loss of electrical bus power due to chafing and/or abrasion of the power feeder cable installation, which could result in a potential fire ignition source and consequent fire in the cabin; accomplish the following:

**Inspection**

(a) Within 2 years after the effective date of this AD, perform a general visual inspection for proper installation, damage (e.g., evidence of sharp object penetration), or abrasion of the power feeder cables and trough installations, and for proper installation of caterpillar grommets in the lightening holes; per the Work Instructions of McDonnell Douglas Alert Service Bulletin (ASB) DC9–24A078, Revision 04, dated May 25, 2000.

**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.”

**Note 2:** It is not necessary to inspect power feeder cables that are contained in conduit.

(b) If any abrasion or damage is found on the power feeder cables and troughs or any improper installation of the caterpillar grommets in the lightening holes is detected during the inspections required by paragraph (a) of this AD, before further flight, repair per the Work Instructions of McDonnell Douglas ASB DC9–24A078, Revision 04, dated May 25, 2000.

(c) Within 2 years after the effective date of this AD, modify the power feeder cable installation (including installing lightening hole grommets, replacing clipnuts with clipnuts specified in McDonnell Douglas ASB DC9–24A078, Revision 04, dated May 25, 2000, as applicable, and performing a generator circuit relay test), per the Work Instructions of McDonnell Douglas ASB DC9–24A078, Revision 04, dated May 25, 2000.

**Acceptable Methods of Compliance**

(d) Accomplishment of the actions specified in McDonnell Douglas DC–9 Service Bulletin 24–78, dated April 9, 1985; Revision 1, dated December 9, 1985; Revision 2, dated March 20, 1986; or Revision 3, dated July 17, 1987; before the effective date of this AD, is acceptable as a method of compliance with the requirements of this AD.

**Alternative Methods of Compliance**

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

Issued in Renton, Washington, on September 15, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03–23938 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2001–NM–269–AD]

RIN 2120–AA64

**Airworthiness Directives; Dassault Model Falcon 900 EX and Mystere-Falcon 900 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive

(AD), applicable to certain Dassault Model Falcon 900 EX and Mystere-Falcon 900 series airplanes, that would have required installing an attachment support assembly for the fire extinguishing piping in the baggage compartment. This new action revises the proposed rule by proposing to add a requirement to modify the liner panel of the baggage compartment for certain airplanes. The actions specified by this new proposed AD are intended to prevent distortion of the fire extinguishing discharge nozzle as a result of the nozzle not being secure, which could result in poor diffusion of the fire extinguishing agent in the event of a fire in the baggage compartment. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by October 15, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–269–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain “Docket No. 2001–NM–269–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**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:****Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and

be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-269-AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-269-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Dassault Model Falcon 900 EX and Mystere-Falcon 900 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 30, 2003 (68 FR 4739). That NPRM (the "original NPRM") would have required installing an attachment support assembly for the fire extinguishing piping in the baggage compartment. The original NPRM was prompted by a report of a damaged (distorted) discharge nozzle. This condition, if not corrected, could result in poor diffusion of the fire

extinguishing agent in the event of a fire in the baggage compartment.

#### Comments

Due consideration has been given to the comments received in response to the original NPRM.

#### Request To Cite Revised Service Bulletin

The original issue of Dassault Service Bulletin F900-279 was cited in the original NPRM as the appropriate source of service information for the support assembly installation on Model Mystere-Falcon F900 series airplanes. The manufacturer (and sole commenter on the original NPRM) discovered that Dassault Service Bulletin F900-279 is not "totally efficient" for Model Mystere-Falcon F900 series airplanes, serial numbers (S/Ns) 1 through 59, that weren't modified in production (Modification M874). Modification M874 introduces a different angle of the nozzle and the associated cutting in the liner panel. The manufacturer has issued Dassault Service Bulletin F900-279, Revision 1, dated May 15, 2002, to provide procedures to reinforce the extinguishing diffuser fitting and ensure the proper upward direction of the nozzle. The manufacturer requests that the original NPRM be revised to cite Revision 1 of the service bulletin.

The FAA concurs. Revision 1 of the service bulletin adds procedures for airplanes having S/Ns 1 through 59 that were modified in accordance with the original issue of Service Bulletin F900-279. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recognizing the need for different requirements for the different affected airplane models, issued French airworthiness directives 2001-192-034(B) R1 (for Model F900EX series airplanes) and 2002-261(B) (for Model Mystere-Falcon F900 series airplanes), both dated May 15, 2002, to account for the possible incorporation of Modification M874. Paragraph (a) in this supplemental NPRM has been revised to cite Revision 1 of Service Bulletin F900-279.

#### Request To Revise the Applicability

The commenter requests that the applicability specified in the original NPRM be revised, and suggests specific language intended to more correctly define the affected airplanes.

In light of the service bulletin revision and production modification for certain models, we concur with the request and have revised the applicability accordingly in this supplemental NPRM.

#### Request To Revise Requirement

The commenter notes that the paragraph numbering in the Accomplishment Instructions is no longer the same in both service bulletins. The commenter requests that paragraph (a) of the original NPRM be revised to reflect the additional steps in Service Bulletin F900-279, Revision 1, which account for the possible incorporation of Modification M874.

The FAA agrees. Paragraph (a) has been revised in this supplemental NPRM to more clearly identify the applicable service information for the corresponding actions.

#### Request To Cite New/Revised French Airworthiness Directives

The commenter requests that the original NPRM be revised to cite the new/revised French airworthiness directives.

We agree and have accordingly revised Note 1 in this supplemental NPRM (Note 3 in the original NPRM).

#### Request To Require Report

The commenter requests that the original NPRM be revised to require the compliance report recommended in the service bulletins. The commenter asserts that the reports help provide better customer support.

We do not concur with the request to require such a report. The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires agencies to consider the extent of the paperwork burden that will accompany any new rule. This Act is intended to reduce these burdens by requiring agencies not only to analyze the information collection and reporting costs they are imposing on the private sector, but to use those analyses to minimize the cost. Therefore, we cannot justify imposing this burden, which would not help to eliminate the unsafe condition.

#### Conclusion

Since certain changes expand the scope of the original NPRM, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

#### Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOCs). Because we have now included this material in part 39, only

the office authorized to approve AMOCs is identified in each individual AD.

**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**

We estimate that 150 airplanes of U.S. registry would be affected by this proposed AD.

It would take about 3 work hours per airplane to install the support assembly, at an average labor rate of \$65 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this proposed action on U.S. operators is estimated to be \$29,250, or \$195 per airplane.

If required, the panel modification would take about 4 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the proposed panel modification is estimated to be about \$260 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed 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 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 proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

**Dassault Aviation:** Docket 2001–NM–269–AD.

*Applicability:* The following airplanes, certificated in any category:

TABLE—APPLICABILITY

Model—	Excluding airplanes modified in accordance with Dassault Service Bulletin—	Which corresponds to Dassault Modification—
Mystere-Falcon 900 series airplanes .....	MF900–279, dated June 7, 2001 .....	M3368.
Falcon 900EX series airplanes .....	or F900–279, Revision 1, dated May 15, 2002 .....	M3368 and M874.
	F900EX–142, dated June 7, 2001 .....	F900EX M3368.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent distortion of the fire extinguishing discharge nozzle as a result of the nozzle not being secure, which could result in poor diffusion of the fire extinguishing agent in the event of a fire in the baggage compartment, accomplish the following:

**Installation**

(a) Within 7 months or 330 flight hours after the effective date of this AD, whichever comes first, install an attachment support assembly for the fire extinguishing piping in the baggage compartment, in accordance with the following service information, as applicable:

(1) For Model Falcon 900 EX series airplanes: Paragraphs 2.A. through 2.C. of the Accomplishment Instructions of Dassault Service Bulletin F900EX–142, dated June 7, 2001.

(2) For Model Mystere-Falcon F900 series airplanes: Paragraphs 2.A. through 2.D., as applicable, of the Accomplishment Instructions of Dassault Service Bulletin F900–279, Revision 1, dated May 15, 2002. Paragraph 2.B. of this service bulletin includes a modification of the liner panel of the baggage compartment for airplanes having serial numbers 1 through 59 inclusive, with the nozzle directed downward.

**Alternative Methods of Compliance**

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, is authorized to approve alternative methods of compliance for this AD.

**Note 1:** The subject of this AD is addressed in French airworthiness directives 2001–192–034(B) R1 and 2002–261(B), both dated May 15, 2002.

Issued in Renton, Washington, on September 15, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03–23937 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–P**



**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2001–NM–88–AD]

RIN 2120–AA64

**Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes****AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, that would have required replacement of the hinge assemblies on certain escape slide compartments of the forward doors with new, stronger hinge assemblies. This new action revises the proposed rule by adding an inspection for incorrectly crimped hinge assemblies, and corrective action if necessary, for certain airplanes. The actions specified by this new proposed AD are intended to prevent forward door escape slides from falling out of their compartments into the airplane interior and inflating, which could impede an evacuation in the event of an emergency. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by October 14, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–88–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain “Docket No. 2001–NM–88–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be

examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Keith Ladderud, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6435; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket Number 2001–NM–88–AD.” The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–88–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on July 9, 2002 (67 FR 45412). That NPRM (the “original NPRM”) would have required replacement of the hinge assemblies on certain escape slide compartments of the forward doors with new, stronger hinge assemblies. The original NPRM was prompted by an investigation that revealed that the soft aluminum hinge assemblies on the escape slide compartments on affected airplanes are susceptible to deformation. That condition, if not corrected, could result in forward door escape slides falling out of their compartments into the airplane interior and inflating, which could impede an evacuation in the event of an emergency.

**Comments**

Due consideration has been given to the comments received in response to the original NPRM.

**Support for the Original NPRM**

Several commenters support the original NPRM. One commenter adds that accomplishment of the proposed actions will help eliminate unintended slide deployments on affected airplanes.

**Request To Cite Revised Service Bulletin**

The manufacturer states that Boeing Service Bulletin 737–25–1430, dated February 22, 2001, misidentifies certain part numbers in the Existing Parts Accountability table. (That service bulletin was cited as the appropriate source of service information for the actions specified in the original NPRM.) The manufacturer advises of the revision of that service bulletin to correct the part number discrepancy, and requests that the original NPRM be revised to cite the revised service bulletin.

The FAA agrees with the request. Revision 1 of the service bulletin, dated April 10, 2003, was issued to correct the part numbers and to add an inspection for incorrectly crimped hinge assemblies for airplanes already modified by the original issue of the service bulletin, which may have not ensured that all hinge assemblies are crimped at one or both ends. An incorrectly crimped hinge assembly may not hold the hinge pin correctly. In this supplemental NPRM:



- Paragraph (a) has been revised to limit its applicability to airplanes on which the original issue of the service bulletin has not been done.
- Paragraph (a) has been revised to cite Revision 1 of the service bulletin.
- New paragraph (b) has been added to require inspection of airplanes on which the original service bulletin was done.
- Subsequent paragraphs have been reidentified accordingly.

#### Request To Withdraw the Proposed AD

One commenter requests withdrawal of the proposed AD as unnecessary. The commenter suggests that the proposed AD was prompted by an isolated incident during which multiple unfavorable conditions existed. The commenter, an operator, reports that, since the early 1990s, its affected airplanes have flown over seven million miles without an escape slide inflating inside the cabin.

The FAA does not agree with the request to withdraw the original NPRM. While few slides have actually inflated inside an airplane, there have been multiple incidents of escape slides dropping out of the closed door-mounted stowage compartment into the passenger compartment. An escape slide that drops out of its compartment could automatically inflate inside the passenger compartment and impede an emergency evacuation. This supplemental NPRM would mandate a design change that will prevent the slide from dropping out of its closed compartment.

#### Request for Additional Information

One commenter, an operator, suggests that the manufacturer investigate the prevalence of the incident that prompted this AD (*i.e.*, an escape slide dropping out of its closed door-mounted stowage compartment and inflating inside the passenger compartment). The operator asserts its intent to ascertain the background of the unsafe condition by requesting from Boeing all previous correspondence on this issue between the manufacturer and operators.

The FAA acknowledges the comment, although the commenter requests no specific change to the original NPRM. In light of the previous comment and response, the FAA finds it necessary to proceed with this AD action to address the identified unsafe condition.

#### Request To Extend the Compliance Time

Several commenters request that the proposed compliance time to replace the hinge assemblies be extended from 24 months to 36 months to enable

operators to do the work during the normal overhaul schedule for the escape slides.

The FAA agrees with this request. In revising this compliance time, the FAA considered the safety implications, parts availability, and typical maintenance schedules of affected operators. Extending the compliance time to the suggested 36 months will not adversely affect safety but will accommodate the time necessary for the operators to obtain replacement parts and schedule the work. Paragraph (a) of the original NPRM has been revised accordingly in this supplemental NPRM.

#### Request To Revise Compliance Time

Several commenters request revision of paragraph (b) of the original NPRM (paragraph (c) in this supplemental NPRM), which specifies that certain hinge assemblies may no longer be installed after the effective date of the AD. The commenters request that this compliance time be extended to coincide with the compliance time to replace all hinge assemblies. The commenters state that this extension would give operators more time to update airplane manuals and prevent unforeseen delays if parts are not readily available.

The FAA does not agree. Once an unsafe condition has been identified, the FAA generally prohibits that condition from being introduced (or re-introduced) into the fleet. When it is determined that replacement (safe) parts are immediately available to operators, the FAA typically prohibits installation of the unsafe parts as of the effective date of the AD. While this AD action was being developed, the FAA carefully considered all relevant information including parts availability and determined that sufficient parts would be available to meet operator demand.

Further, the FAA considers the period of time between publication of the final rule in the **Federal Register** and the effective date of the AD (35 days) sufficient for operators to determine their immediate need for parts and to obtain them. In individual cases where this is not possible, this supplemental NPRM contains a provision (in paragraph (d)) that would allow operators to request an extension of the compliance time, based upon a specific showing of need. The FAA considers that this provision ensures an adequate level of safety without imposing any undue burden on operators.

No change to this supplemental NPRM is necessary regarding this issue.

#### Request for Coinciding Compliance Times

One commenter questions the timing of this AD in connection with the issuance of AD 2001-15-01, amendment 39-12335 (66 FR 38361, July 24, 2001). AD 2001-15-01 requires modification of the escape slides by modifying the latch assembly and installing a cover assembly on the trigger housing of the inflation cylinder. The commenter advises that the two ADs will require closely associated work at different times. The FAA infers that the commenter requests harmonization of the ADs' compliance times.

The FAA does not agree. The compliance time for AD 2001-15-01 is 18 months for some actions and 36 months for the remaining actions, effective from August 28, 2001. Therefore, a coordinated work schedule for the two ADs would necessitate a shorter compliance time for the proposed requirements in this supplemental NPRM. As stated previously, the FAA finds the proposed compliance time extended to 36 months as requested to be adequate. No further change to this supplemental NPRM is necessary regarding the compliance time.

#### Request To Provide Alternative Actions

One commenter requests that the original NPRM be revised to provide for the option of repetitively inspecting and testing the hinge assemblies, instead of replacing them within the specified compliance time. The commenter states that the alternative repetitive inspections would prevent the unnecessary replacement of functional parts.

The FAA does not agree, based on the determination that the subject hinge assemblies are weak and must be replaced within the proposed compliance time. The FAA has determined that long-term continued operational safety will be better ensured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed modification requirement is consistent with these considerations. No further

change to this supplemental NPRM is necessary regarding this issue.

#### **Request To Allow Alternative Finishes**

One commenter prefers that the service bulletin avoid specifying the finish (for the primer or topcoat) to be used to conceal the flush rivets. Because some operators may have already painted the container assemblies with an unspecified finish, the operator suggests that the original NPRM be revised to specifically allow use of an "equivalent" finish.

The FAA does not agree. An "operator's equivalent procedure" may be used only if approved as an alternative method of compliance (AMOC) in accordance with paragraph (d) of this supplemental NPRM. No change to this supplemental NPRM is necessary regarding this issue.

#### **Request To Revise Reference to Service Bulletin Figure**

One operator suggests that Boeing Service Bulletin 737-25-1430 depicts the latch assembly in use before AD 2001-15-01 was issued. This latch assembly, part number 65C19901-20, is depicted in Figure 2, Sheet 2 of 6, of that service bulletin. The commenter suggests this was an oversight, but expresses concern about the potential confusion it may raise for other operators. The FAA infers that the commenter requests that reference to this figure be revised or removed from the proposed AD.

The FAA agrees. As stated earlier, this supplemental NPRM has been revised to cite Revision 1 of the service bulletin, which includes the commenter's suggested change.

#### **Request To Revise Part Reidentification Method**

One commenter requests a revision of the method of reidentification (reidentifying the part number) specified in the original NPRM. The commenter doubts that the existing part number would be present on all affected escape slide covers, which may have been subject to prior maintenance, repair, or repainting. The commenter suggests reidentifying the reworked escape slide compartment by adding "SB 737-25-1430 Compliant" adjacent to any existing part numbers.

The FAA does not agree with the request. Reidentification with the new part number, as proposed in this supplemental NPRM, would ensure that the correct part number is installed. However, the FAA may consider requests for AMOCs if submitted with detailed procedures that would ensure an acceptable level of safety, under the

provisions of paragraph (d) of this supplemental NPRM.

#### **Request To Revise Description of Unsafe Condition**

The manufacturer states that an escape slide released from its compartment into the airplane interior would not always automatically inflate. The commenter requests that the original NPRM be revised to imply only the potential for the slide to inflate—the slide "could," rather than "would," automatically inflate. The original NPRM refers to one incident of the escape slide inflating inside the airplane; in that instance, the commenter suggests that the severe swerving motion of the airplane likely caused the escape slide to move across the floor and inflate. The FAA infers that the commenter requests that the discussion of the unsafe condition identified in the original NPRM be reworded accordingly.

The FAA agrees that the commenter's suggested wording is clearer than the wording in the Discussion section of the original NPRM. Although this supplemental NPRM does not repeat that section, the events associated with the identified unsafe condition are clarified in the discussion under "Request to Withdraw the Proposed AD."

#### **Request To Revise Cost Estimate**

Several commenters report that the price of the replacement parts has increased since the original NPRM was issued. The manufacturer has confirmed that the current parts cost is \$1,569. The Cost Impact section has been revised accordingly in this supplemental NPRM.

#### **Additional Changes to the Original NPRM**

In the original NPRM, the heading for paragraph (b) is "Spare Parts." In this supplemental NPRM, the heading for that paragraph (reidentified as paragraph (c)) has been renamed "Part Installation" to more accurately define the proposed requirement.

#### **Conclusion**

Since certain changes expand the scope of the original NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

#### **Cost Impact**

There are approximately 1,974 airplanes of the affected design in the worldwide fleet. The FAA estimates that

793 airplanes of U.S. registry would be affected by this supplemental NPRM.

Replacement of the hinge assemblies, if necessary, would take approximately 5 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts would cost approximately \$1,569 per airplane. Based on these figures, the cost impact of the proposed hinge replacement is estimated to be \$1,894 per airplane.

The inspection, if necessary, would take approximately 1 to 3 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the proposed inspection is estimated to be \$65 to \$195 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed 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 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 proposal would not have federalism implications under Executive Order 13132.

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

#### **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**Boeing:** Docket 2001–NM–88–AD.

*Applicability:* Model 737–300, –400, and –500 series airplanes; certificated in any category; as listed in Boeing Special Attention Service Bulletin 737–25–1430, Revision 1, dated April 10, 2003.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent forward door escape slides from falling out of their compartments into the airplane interior and inflating, which could impede an evacuation in the event of emergency, accomplish the following:

#### Hinge Assembly Replacement

(a) For airplanes on which the hinge assemblies have not been replaced as of the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 737–25–1430, dated February 22, 2001: Within 36 months after the effective date of this AD, replace the hinge assemblies on the escape slide stowage compartments of the forward doors with new, stronger hinge assemblies, in accordance with Part 1 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1430, Revision 1, dated April 10, 2003.

#### Hinge Assembly Inspection

(b) For airplanes on which the hinge assemblies were replaced before the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 737–25–1430, dated February 22, 2001: Within 36 months after the effective date of this AD, perform a general visual inspection for incorrectly crimped hinge assemblies, in accordance with Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1430, Revision 1, dated April 10, 2003. If any hinge assembly is not correctly crimped, perform corrective action before further flight in accordance with Revision 1 of the service bulletin.

**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.”

#### Part Installation

(c) As of the effective date of this AD, no person may install a hinge assembly P/N 65C30431–6 or 65C30431–7 on any airplane.

#### Alternative Methods of Compliance

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

Issued in Renton, Washington, on September 15, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03–23936 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–U**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002–NM–137–AD]

RIN 2120–AA64

#### Airworthiness Directives; Airbus Model A300 B4–622R and A300 F4–622R Airplanes, and Model A310–324 and –325 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 B4–622R and A300 F4–622R airplanes, and Model A310–324 and –325 series airplanes, that are equipped with Pratt & Whitney PW4000 series engines. This proposal would require replacement of the existing flexible hose assembly that connects the oil pressure transmitter to the main oil circuit, with a new improved tube assembly. This action is necessary to prevent failure of the oil pressure indicator and low-oil-pressure warning in the event of an engine fire, which could result in an unannounced shutdown of the engine. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by October 20, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation

Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–137–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain “Docket No. 2002–NM–137–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

#### FOR FURTHER INFORMATION CONTACT:

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

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002-NM-137-AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-137-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300 B4-622R and A300 F4-622R airplanes, and Model A310-324 and -325 series airplanes, that are equipped with Pratt & Whitney PW4000 series engines. The DGAC advises that the flexible hose assembly that connects the oil pressure transmitter to the main oil circuit on Pratt & Whitney PW4000 series engines is not compliant with requirements for fireproofing. An oil line in this location should have zero-flow fireproofing, but the flexible hose assembly currently installed provides only low-flow fireproofing. This condition, if not corrected, could result in failure of the oil pressure indicator and low-oil-pressure warning in the event of an engine fire, which could result in an unannounced shutdown of the engine.

#### Explanation of Relevant Service Information

Airbus has issued Service Bulletins A300-79-6003 (for Model A300 B4-622R and A300 F4-622R airplanes) and A310-79-2004 (for Model A310-324 and -325 series airplanes), both dated January 31, 2002. Those service bulletins describe procedures for replacement of the existing flexible hose assembly that connects the oil pressure transmitter to the main oil circuit, with a new improved tube assembly. Among other benefits, the new improved tube assembly meets zero-flow fireproofing requirements. The service bulletins also

describe procedures for performing a test of the engine oil system after the replacement, which includes testing the tube and connectors of the new improved tube assembly for a leak or a loose connection. Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 2002-173(B), dated April 3, 2002, to ensure the continued airworthiness of these airplanes in France.

The Airbus service bulletins refer to Pratt & Whitney Alert Service Bulletin PW4NAC A79-21, dated October 15, 2001, as an additional source of service information for the replacement of the flexible hose assembly with a new improved tube assembly.

#### FAA's Conclusions

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

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the applicable Airbus service bulletin described previously.

#### Changes to 14 CFR Part 39/Effect on the Proposed 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 (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

#### 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 139 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$65 per work hour. Required parts would be provided by the manufacturer at no charge. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$90,350, or \$650 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed 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 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 proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket.

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

##### § 39.13 [Amended]

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

**Airbus:** Docket 2002–NM–137–AD.

**Applicability:** Model A300 B4–622R and A300 F4–622R airplanes, and Model A310–324 and –325 series airplanes, equipped with Pratt & Whitney PW4000 series engines; certificated in any category; except those on which Airbus Modification 12468 has been accomplished in production.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent failure of the oil pressure indicator and low-oil-pressure warning in the event of an engine fire, which could result in an unannounced shutdown of the engine, accomplish the following:

#### Replacement

(a) Within 8 months after the effective date of this AD, replace the existing flexible hose assembly, part number (P/N) 113286, that connects the oil pressure transmitter to the main oil circuit, with a new improved tube assembly, P/N 221–5318–501. Before further flight after the replacement, perform a test of the engine oil system. Do these actions according to the Accomplishment Instructions of the service bulletin specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For Model A300 B4–622R and A300 F4–622R airplanes: Airbus Service Bulletin A300–79–6003, dated January 31, 2002.

(2) For Model A310–324 and –325 series airplanes: Airbus Service Bulletin A310–79–2004, dated January 31, 2002.

**Note 1:** Airbus Service Bulletins A300–79–6003 and A310–79–2004 refer to Pratt & Whitney Alert Service Bulletin PW4NAC A79–21, dated October 15, 2001, as an additional source of service information for the replacement required by this AD.

#### Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116,

FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in French airworthiness directive 2002–173(B), dated April 3, 2002.

Issued in Renton, Washington, on September 10, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03–23935 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000–NM–360–AD]

RIN 2120–AA64

#### Airworthiness Directives; Boeing Model 747–400, 777–200, and 777–300 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–400, 777–200, and 777–300 series airplanes. This proposal would require, for certain airplanes, replacement of the cell stack of the flight deck humidifier with a supplier-tested cell stack, or replacement with an end plate and subsequent deactivation of the flight deck humidifier. For other airplanes, this proposal would require replacement of the cell stack with a blanking plate or a new cell stack, or replacement of the blanking plate with a supplier-tested cell stack. This action is necessary to prevent an increased pressure drop across the humidifier and consequent reduced airflow to the flight deck, which could result in the inability to clear any smoke that might appear in the flight deck. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by November 3, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–360–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m.,

Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain “Docket No. 2000–NM–360–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

#### FOR FURTHER INFORMATION CONTACT:

Jeffrey S. Palmer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6481; fax (425) 917–6590.

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000-NM-360-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-360-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The FAA has received reports of sagging cell stack membranes of the flight deck humidifiers on certain Boeing Model 747-400, 777-200, and 777-300 series airplanes. The sagging has been attributed to difficulties encountered during the membrane welding process. The result of the sagging membranes is an increased pressure drop across the humidifier (if it is activated), and consequent reduced airflow to the flight deck. These conditions, if not corrected, could result in the inability to clear any smoke that might appear in the flight deck.

**Explanation of Relevant Service Information**

We have reviewed and approved Boeing Alert Service Bulletin 747-21A2414, Revision 1, dated October 26, 2000 (for Model 747-400 series airplanes), and Boeing Service Bulletin 777-21A0048, Revision 1, dated September 7, 2000 (for Model 777-200 and 777-300 series airplanes). Service Bulletin 747-21A2414 describes procedures for replacement of the cell

stack of the flight deck humidifier with a new or reworked cell stack, or replacement with an end plate and subsequent deactivation of the flight deck humidifier. Service Bulletin 777-21A0048 describes procedures for replacement of the cell stack with a blanking plate or a supplier-tested cell stack, or replacement of the blanking plate with a supplier-tested cell stack. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Boeing Service Bulletins 747-21A2414 and 777-21A0048 refer to Hamilton Sundstrand Service Bulletins 821486-21-01 and 816086-21-01, respectively (both dated March 15, 2000), as additional sources of service information for replacement of the cell stack.

Boeing Service Bulletin 747-21A2414 also refers to Boeing Service Bulletin 747-21-2405, which provides information for activation and deactivation of the flight deck humidifier. Boeing Service Bulletin 777-21A0048 refers to Boeing Service Bulletin 777-21-0035, which provides information for activation of the flightdeck humidifier.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in Boeing Service Bulletins 747-21A2414 and 777-21A0048, described previously, except as discussed below.

**Differences Between Proposed AD and Service Bulletins**

Boeing Service Bulletins 747-21A2414 and 777-21A0048 recommend replacing the cell stack within 60 days; the proposed AD would allow up to 90 days. In developing an appropriate compliance time, we considered the safety implications and operators' normal maintenance schedules for the timely replacement of the cell stack. Therefore, with manufacturer concurrence, we have determined that the proposed 90-day compliance time represents an appropriate interval to replace the cell stack and still maintain an adequate level of safety within the fleet.

**Explanation of Certain Alternative Method of Compliance**

Paragraph (c)(1) of this proposed AD would allow replacement of the cell stack with a blanking plate provided the humidifier system is deactivated. The service bulletin provides no procedures for deactivating the humidifier system. Therefore, this option must be done in accordance with a method approved by the 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 FAA to make such findings.

**Cost Impact**

There are approximately 35 airplanes of the affected design in the worldwide fleet. The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD. The FAA provides the following cost estimates, which would vary depending on the actions chosen by the operator, to comply with this proposed AD.

Model/series	Action	Work hours	Hourly rate	Parts cost	Cost per airplane
747-400 .....	Replace cell stack with supplier-tested cell stack .....	5	\$65	\$5,100	\$5,425
747-400 .....	Replace cell stack with end plate and deactivate humidifier .....	6	65	0	390
777-200 .....	Replace cell stack with blanking plate .....	5	65	0	325
777-300 .....	Replace cell stack with supplier-tested cell stack .....	5	65	6,053	6,378
777-200 .....	Replace blanking plate with supplier-tested cell stack .....	3	65	6,053	6,248

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed 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 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 proposal would not have federalism implications under Executive Order 13132.

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

##### § 39.13 [Amended]

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

**Boeing:** Docket 2000–NM–360–AD.

**Applicability:** Model 747–400 series airplanes listed in Boeing Alert Service Bulletin 747–21A2414, Revision 1, dated October 26, 2000; and Model 777–200 and –300 series airplanes listed in Boeing Service Bulletin 777–21A0048, Revision 1, dated September 7, 2000; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent an increased pressure drop across the humidifier and consequent reduced airflow to the flight deck, which could result in the inability to clear any smoke that might appear in the flight deck, accomplish the following:

##### Cell Stack Replacement: Model 747–400

(a) For Model 747–400 series airplanes: Within 90 days after the effective date of this AD, do the actions specified in either paragraph (a)(1) or (a)(2) of this AD.

(1) Replace the cell stack of the flight deck humidifier with a supplier-tested cell stack, in accordance with Part 1 of Boeing Alert

Service Bulletin 747–21A2414, Revision 1, dated October 26, 2000.

(2) Replace the cell stack with an end plate and before further flight deactivate the flight deck humidifier, in accordance with Part 2 of the alert service bulletin. Replacement of the cell stack with a supplier-tested cell stack in accordance with the 4 requirements of paragraph (a)(1) of this AD, if accomplished, terminates the requirement to deactivate the humidifier.

**Note 1:** Boeing Alert Service Bulletin 747–21A2414 refers to Boeing Service Bulletin 747–21–2405 as an additional source of service information for deactivating the humidifier.

(b) Replacement of the cell stack before the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–21A2414, dated April 13, 2000, is acceptable for compliance with the applicable requirements of paragraph (a) of this AD.

##### Cell Stack Replacement: Model 777–200 and –300

(c) For Model 777–200 and 777–300 series airplanes: Within 90 days after the effective date of this AD, do the actions specified in paragraph (c)(1) or (c)(2) or (c)(3) of this AD, in accordance with Boeing Service Bulletin 777–21A0048, Revision 1, dated September 7, 2000.

(1) Replace the cell stack with a blanking plate, in accordance with Part 1 of the service bulletin; and deactivate the humidifier system before further flight in accordance with 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 deactivation method to be approved, the approval must specifically reference this AD.

(2) Replace the cell stack with a supplier-tested cell stack, in accordance with Part 2 of the service bulletin.

(3) Replace the blanking plate with a supplier-tested cell stack, in accordance with Part 3 of the service bulletin.

**Note 2:** Boeing Service Bulletins 747–21A2414 and 777–21A0048 refer to Hamilton Sundstrand Service Bulletins 821486–21–01 and 816086–21–01, respectively, as additional sources of service information for the cell stack replacement.

##### Part Installation

(d) On Model 747–400 series airplanes: As of the effective date of this AD, no person may install a flight deck humidifier cell stack having part number (P/N) 821482–1, unless "DEV 13433" is also marked next to the cell stack part number.

(e) On Model 777–200 and 777–300 series airplanes: As of the effective date of this AD, no person may install a flight deck dehumidifier cell stack having P/N 822976–2, unless "DEV 13433" is also marked next to the cell stack part number.

##### Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, FAA, is authorized to

approve alternative methods of compliance for this AD.

Issued in Renton, Washington, on September 15, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03–23934 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–112039–03]

RIN 1545–BC35

#### Elimination of Forms of Distribution in Defined Contribution Plans

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains a correction to proposed regulations that was published in the **Federal Register** on July 8, 2003 (68 FR 40581). This regulation modifies the circumstances under which certain forms of distribution previously available are permitted to be eliminated from qualified defined contribution plans.

**FOR FURTHER INFORMATION CONTACT:** Vernon S. Carter, (202) 622–6060 (not a toll free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The proposed regulations that are the subject of this correction are under section 411 of the Internal Revenue Code.

##### Need for Correction

As published, the notice of proposed rulemaking contains errors that may prove to be misleading and is in need of clarification.

##### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–112039–03), which were the subject of FR Doc. 03–17089, is corrected as follows:

On page 40581, column 3, in the preamble under the caption **SUMMARY**, lines nine through thirteen, the language "This document also provides notice of



a public hearing on these proposed regulations." is removed.

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 03-23981 Filed 9-18-03; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-P-7637]

**Proposed Flood Elevation Determinations**

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

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

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

**FOR FURTHER INFORMATION CONTACT:** 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 for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental

Consideration. No environmental impact assessment has been prepared.

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

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

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

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

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, flood insurance, reporting and record keeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

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

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

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. *(NGVD) ♦(NAVD)	
				Existing	Modified
Minnesota .....	Jackson (City), Jackson County.	West Fork Des Moines River.	At the corporate limit, approximately 2,000 feet downstream of the confluence of Nelson Creek.	*1,306	*1,304
			At the corporate limit, about 3,200 feet downstream of Interstate 90.	*1,315	*1,314
Maps are available for inspection at City Hall, 80 West Ashley Street, Jackson, Minnesota. Send comments to The Honorable Dean Albrecht, City Administrator, City of Jackson, City Hall, 80 West Ashley Street, Jackson, Minnesota 56143.					
Ohio .....	Bentleyville (Village), Cuyahoga County.	Aurora Branch .....	Approximately 1,500 feet upstream of the mouth.	*828	*833



State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. *(NGVD) ♦(NAVD)	
				Existing	Modified
		Chagrin River .....	At the corporate limits, approximately 1,700 feet upstream of the Norfolk Southern Railroad bridge.	*892	*893
		Chagrin River .....	At the corporate limits, approximately 700 feet downstream of Miles Road.	*821	*823
		Tributary 2 .....	At at the corporate limits, approximately 4,550 feet upstream of the confluence of Aurora Branch.	*836	*838
			At the mouth .....	*883	*889
			Approximately 140 feet downstream of Liberty Road.	*888	*889

Maps are available for inspection at the Bentleyville Village Hall, 6253 Chagrin River Road, Bentleyville, Ohio.

Send comments to The Honorable Michael R. Canty, Mayor, Village of Bentleyville, 6253 Chagrin River Road, Bentleyville, Ohio 44022.

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

Dated: September 10, 2003.

**Anthony S. Lowe,**

*Mitigation Division Director, Emergency Preparedness and Response Directorate.*

[FR Doc. 03-23989 Filed 9-18-03; 8:45 am]

**BILLING CODE 6718-04-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2716, MM Docket No. 00-64, RM-9117]

### Radio Broadcasting Services; Madison, Alabama and Tullahoma, TN

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; denial.

**SUMMARY:** This document denies a pending petition for rulemaking proposing the reallocation of Channel 227C1 from Tullahoma, Tennessee to Madison, Alabama, and the modification of the Station WUSX(FM) license accordingly. The Audio Division had requested comment on a petition filed by Tennessee Valley Radio, Inc. proposing the reallocation of Channel 227C1. See 65 FR 20,935, April 19, 2000. The petitioner subsequently amended its proposal in reply comments, asking that Channel 227C1 be removed from Tullahoma, Tennessee, and that Channel 227C2 be allotted at Madison, Alabama. In its reply comments, petitioner also revised the proposed reference coordinates for the new allotment at Madison, Alabama. The revised reference coordinates are 34-50-20 North Latitude and 86-30-53 West Longitude. This document denies the petition, based upon the conclusion that the proposed reallocation and

change of community of license would not serve the public interest, and terminates the proceeding.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Deborah A. Dupont, Media Bureau (202) 418-7072.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 00-64, adopted September 3, 2003, and released September 5, 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 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23924 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2828; MB Docket No. 03-195; RM-10745]

### Radio Broadcasting Services; Dripping Springs and Marble Falls, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Amigo Radio, Ltd. requesting the substitution of Channel 285A for Channel 285C2 at Marble Falls, TX, reallocation of Channel 285A from Marble Falls, TX to Dripping Springs, TX, and modification of the license for Station KXXS to specify operation at Dripping Springs.<sup>1</sup> Channel 285A can be allotted to Dripping Springs at coordinates 30-11-54 and 98-00-46. Mexican concurrence will be requested for the allotment of Channel 285A at Dripping Springs. In accordance with the provisions of Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest for the use of Channel 285A at Dripping Springs.

**DATES:** Comments must be filed on or before October 30, 2003, and reply comments on or before November 14, 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's counsel, as follows: Robert B. Jacobi, Richard A. Helmick, Cohn and Marks LLP, 1920 N Street, NW., Suite 300, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03-195, adopted September 3, 2003, and released September 8, 2003. The full text of this Commission decision is available for inspection and copying

<sup>1</sup> On August 4, 2003, a CFR correction was published in the **Federal Register** correcting the FM Table of Allotments under Texas listing the community of Marble Falls and Channel 285C2. See 68 FR 45786, August 4, 2003.

during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, or via e-mail [qualexint@aol.com](mailto: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* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Dripping Springs, Channel 285A and removing Marble Falls, Channel 285C2.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23926 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 03-2714; MB Docket No. 03-190; RM-10738]

#### Radio Broadcasting Services; Athens and Doraville, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Cox Radio, Inc. and CXR Holdings, Inc. requesting the reallocation of Channel 238C1 from Athens, Georgia to Doraville, Georgia, as the community's first local aural transmission service, and modification of the license for Station WBTS to reflect the changes. Channel 238C1 can be allotted to Doraville at coordinates 34-07-32 and 83-51-32. The proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 238C1 at Doraville, Georgia.

**DATES:** Comments must be filed on or before October 27, 2003, and reply comments on or before November 12, 2003.

**ADDRESSES:** Office of the Secretary, Federal Communications Commission, 445 Twelfth Street SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Kevin F. Reed, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue NW., Suite 800, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03-190, adopted September 3, 2003, and released September 5, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, or via e-mail [qualexint@aol.com](mailto: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* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 238C at Athens and by adding Doraville, Channel 238C1.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-23998 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-P**

#### DEPARTMENT OF TRANSPORTATION

#### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-03-14396]

RIN 2127-A156

#### Federal Motor Vehicle Safety Standards No. 224; Rear Impact Protection

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** In this document, NHTSA proposes to amend the Federal motor vehicle safety standard (FMVSS) No. 224, "Rear impact protection," to exclude road construction controlled horizontal discharge semitrailers (RCC horizontal discharge trailers) from the standard. The agency has tentatively concluded that the installation of rear impact guards (underride guards), as required by FMVSS No. 224, on RCC horizontal discharge trailers is impracticable due to the unique design and purpose of such vehicles.

**DATES:** You should submit comments early enough to ensure that Docket Management receives them not later than October 20, 2003.

**ADDRESSES:** You may submit comments identified by Docket No. NHTSA-03-14396 by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: 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.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or 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.

**FOR FURTHER INFORMATION CONTACT:** For nonlegal issues: Dr. William J.J. Liu, Office of Rulemaking, NVS-113, telephone (202) 366-4923. For legal issues: Mr. George Feygin, Office of Chief Counsel, NCC-112, telephone (202) 366-2992. Both can be reached at the National Highway Traffic Safety Administration, 400 7th St., SW., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

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- I. Background
- II. FMVSS No. 224
- III. Petition
- IV. Proposed Amendments
- V. Estimated Costs and Benefits
- VI. Request for and Submission of Comments
- VII. Rulemaking Analyses and Notices

## I. Background

RCC horizontal discharge trailers are a unique piece of equipment used in the road construction industry to deliver asphalt and other building materials to construction sites. The trailers are equipped with a mechanical drive and a conveyor to feed asphalt into a lay down or paving machine for road construction and paving operations. With their hydraulically controlled horizontal discharge systems, the trailers discharge mixed asphalt at a controlled rate into pavers, which overlay the road surface with asphalt material.

From the standpoint of FMVSS No. 224, the RCC horizontal discharge trailer's most unique and technologically problematic feature stems from the fact that the rear of the trailer is designed to connect with and latch onto various paving machines. Typically, the paving machine attaches itself to the rear axle of an RCC horizontal discharge trailer via hydraulic arms, and the edge of the trailer's conveyor belt extends over the paving machine opening. This configuration is critical to the road construction process as it allows the RCC horizontal discharge trailer to deposit asphalt mix directly into the paving machine hopper. This feature also allows for a more controlled off-loading, as compared to a steel end dump trailer, which is the only other vehicle capable of delivering asphalt mix to road construction sites.<sup>1</sup> A more controlled offloading not only prevents spillage of asphalt and other debris on the road surfaces, but also ensures a more leveled road surface.

As a result of their unique configuration and the method by which they interact with paving machines, RCC horizontal discharge trailers may not be able to comply with FMVSS No. 224.

This rulemaking proposal is in response to a joint petition for rulemaking submitted to the agency on March 23, 2001, by Dan Hill & Associates, Inc. (Dan Hill) and Red River Manufacturing, Inc., a Division of Trail King Industries, Inc. (Red River) (Docket No. NHTSA-2001-8876). Dan Hill and Red River are manufacturers of RCC horizontal discharge trailers. The petition requested that the agency amend FMVSS No. 224 to "exclude construction controlled horizontal

discharge semitrailers from the scope of the standard." Since the effective date of the standard, January 26, 1998 (61 FR 2004, January 24, 1996), Dan Hill and Red River have each been twice granted temporary exemptions from FMVSS No. 224 for their RCC horizontal discharge trailers due, in part, to the impracticability of installing underride guards on RCC horizontal discharge trailers.<sup>2</sup> Red River's current temporary exemptions would have expired on April 1, 2003. NHTSA's regulations allow for the continued effectiveness of the exemption, pending the agency's final determination of a renewal petition, if such renewal petition is submitted 60 days before the expiration of the existing petition (49 CFR 555.8(e)). Since Red River once again filed for a temporary exemption from FMVSS No. 224 more than 60 days before the expiration of the most recent temporary exemptions, their current exemption will be valid until NHTSA makes a final decision on their petition. The agency has granted Dan Hill a three-year temporary exemption, which expires May 1, 2006 (68 FR 28880, May 27, 2003).

## II. FMVSS No. 224

Underride occurs when a light vehicle crashes into the rear end of a heavy truck that has a chassis higher than the hood of the light vehicle. In certain instances, the light vehicle "slides" or underrides the rear end of the heavy vehicle to such an extent that the rear end of the trailer strikes and enters the passenger compartment of the light vehicle, resulting in passenger compartment intrusion (PCI). PCI crashes can result in severe injuries and fatalities to the light vehicle occupants due to occupant contact with the rear end of the heavy truck.

In an attempt to reduce the frequency and severity of underride collisions, NHTSA issued FMVSS No. 224 (61 FR 2004, January 24, 1996). The standard went into effect on January 26, 1998. The standard requires that all new trailers and semitrailers with a GVWR of 10,000 lbs or more be equipped with an underride guard. The underride guard is attached to the rear of the platform (within 305 mm [12 in] of the rear extremity of the vehicle) and acts to prevent the light vehicle from sliding under the truck chassis.

<sup>1</sup> Because the horizontal discharge trailers do not rise to unload their contents like steel end dump trailers, they can be used on uneven terrain, or where overhead obstructions such as bridges and power lines completely prevent the use of dump trailers.

<sup>2</sup> See 63 FR 15909, 15910 (Apr. 1, 1998); 64 FR 49049, 49050 (Sept. 9, 1999); 66 FR 20028, 20030 (Apr. 18, 2001). Exemptions were based on the "substantial economic hardship" grounds under 49 CFR § 555.6(a). Nevertheless, the economic hardship was rooted in impracticability of installing underride guards.

The standard currently excludes pole trailers, pulpwood trailers, wheels back trailers, and “special purpose vehicles” because attachment of an underride guard to these specific vehicles is either impracticable or unnecessary.<sup>3</sup> For example, in the case of a wheels back trailer, the rear axle is located within 305 mm of the rear extremity of the vehicle. Because the rear wheels are located so close to the rear extremity of the vehicle, they act as an underride guard, making underride virtually impossible.

The RCC horizontal discharge trailers subject to this notice do not fit the current definition of special purpose vehicles, notwithstanding their unique nature and their work-performing equipment, because technically, their work-performing equipment does not move through or reside in the area in which the underride guard would be attached.<sup>4</sup> Accordingly, there is currently no exclusion in FMVSS No. 224 for this type of trailer.

Because of the unique design necessitated by their interactions with the paving machines, a practicable RCC horizontal discharge trailer appears to be ill-suited for a wheels back design. As previously mentioned, an RCC horizontal discharge trailer is designed to extend over a paving machine in order to drop the hot asphalt mix into the hopper. A rear axle located within 12 inches of the rearmost extremity could prevent the trailer from properly extending over the paving machine.

Petitioners concede that they can design an RCC horizontal discharge trailer that would fall under the wheels back exception. Indeed, E.D. Etnyre & Co. (Etnyre), the only other manufacturer of RCC horizontal discharge trailers, has designed an RCC horizontal discharge trailer that falls under that exception. However, according to a temporary exemption petition previously filed by the petitioners, their customers have indicated that a wheels back design is

unacceptable, and therefore, the customers had no interest in purchasing their competitor’s equipment (NHTSA Docket No. 2001–8827–25).<sup>5</sup> We hope to obtain more direct comments on this issue in response to this notice. In sum, it appears that an RCC horizontal discharge trailer that does not extend far enough over a paving machine cannot be used for its intended purpose. Accordingly, a wheels back design may not provide for a practicable solution for compliance with FMVSS No. 224.

### III. Petition

In their March 23, 2001 joint petition, Dan Hill and Red River requested that NHTSA amend FMVSS No. 224 to exclude construction controlled horizontal discharge trailers from FMVSS No. 224. According to the petitioners, the two parties together account for virtually all of RCC horizontal discharge trailer manufacturing. Approximately 0.12% of all trailers produced in the U.S. are RCC horizontal discharge trailers. Both manufacturers claim to have been unsuccessful in their independent efforts to develop an underride guard that is compliant, functional, and capable of interfacing with road-building equipment with which these vehicles are designed to work. Based on their attempts to manufacture a compliant trailer that remains functional and safe under real world operating conditions, petitioners believe that bringing RCC horizontal discharge trailers into compliance with FMVSS No. 224 is not practically feasible. Both manufacturers stated that the denial of their petition would effectively terminate production of RCC horizontal discharge trailers.

Petitioners maintain that a fixed underride guard cannot be installed in order to comply with FMVSS No. 224 because it would prevent paving machines from interfacing with (locking onto) the trailers during the paving operations. Petitioners have also been unable to design a practicable retractable underride guard<sup>6</sup> that would be engaged when an RCC horizontal discharge trailer travels to and from the actual construction sites, and retracted

when the RCC horizontal discharge trailer is attached to the paving machine.

According to the March 23, 2001 petition, designing a retractable underride guard suitable for this application has proven impractical for several reasons, chiefly among them the lack of adequate clearance. The edge of the RCC horizontal discharge trailer must extend over the paving machine in order to drop the hot asphalt mix into the hopper. Because paving machines differ in size and configuration, the trailer must allow for paving machines of different heights to slide under the conveyor structure. Typically, the paving machine openings are 31 to 35 inches off the ground. Conveyor structures of the RCC horizontal discharge trailers are normally 36 to 37 inches off the ground. As a result, the underride guard may have to retract completely against the conveyor structure, in order not to interfere with the paving machine. It appears that achieving such “flush” retraction has not proven feasible. Additionally, raising the overall ground clearance of the RCC horizontal discharge trailer in order to provide adequate clearance for a retractable underride guard would raise the center of gravity of the trailer, possibly making the vehicle more prone to rollovers.

Petitioners note that another difficulty in installing a retractable underride guard involves the location of a planetary gearbox that drives the conveyor system. The gearbox is located where a retractable underride guard system would otherwise be located. Further, asphalt accumulations on the underride guard cause certain maintenance problems, which have not yet been solved. Specifically, a retractable underride guard has mating surfaces that slide over each other. These surfaces would be under constant exposure to hot asphalt, which would result in mating surfaces sticking to each other. The hot mix asphalt materials that adhere to the guard surface may render it ineffective and may pose a risk of injury to the truck or machine operator.

Additional efforts by the petitioners to bring their product into compliance with FMVSS No. 224 have similarly failed. Specifically, petitioners considered adding removable underride guards. They rejected this approach because of concerns that workers would fail to replace the underride guard before transit.<sup>7</sup>

<sup>7</sup> Removable underride guards would allow manufacturers to meet FMVSS No. 224, even if

<sup>3</sup> Special Purpose Vehicle means a trailer or a semitrailer having work-performing equipment that, while the vehicle is in transit, resides in or moves through the area that could be occupied by the horizontal member of the rear underride guard. See 49 CFR § 571.224. Examples of special purpose vehicles are dump trailers, auto transporters, and trailers equipped with lift gates.

<sup>4</sup> However, in discussing a “rear-unload semitrailer” described by The National Potato Council as having a rear conveyor whose operation would be substantially impaired by an underride guard, NHTSA stated that assuming the Council was correct in alleging substantial impairment, such vehicle would qualify as a special purpose vehicle, despite a lack of any indication in our preamble that the conveyor actually resided or operated where the underride guard would be have been attached. See 61 FR 2004, at 2022.

<sup>5</sup> See also comments submitted by Keeler Construction Co., Inc., stating that a horizontal discharge trailer has to be able to interact with the paving machine in order to be effective (NHTSA Docket No. 2001–8827–4).

<sup>6</sup> Petitioners stress that their efforts to comply with FMVSS No. 224 have otherwise been successful. They were able to design functional underride guard systems for other types of discharge trailers. The petition asserts functional impracticability specific to trailers designed to interact with paving machines (NHTSA Docket No. 1997–3122–2).

As previously stated, petitioners contend that they could design a vehicle that would fall under wheels back exception. However, petitioners say that such a vehicle would not be able to perform its intended function because the rear axle would not allow the RCC horizontal discharge trailer to extend over the paving machine.

In sum, petitioners contend that due to the impracticability of installing underride guards on RCC horizontal discharge trailers, not amending the FMVSS No. 224 would effectively eliminate production of RCC horizontal discharge trailers. We note that, in applying for temporary exemptions and subsequent renewals for exemptions from FMVSS No. 224, petitioners put forth the same arguments for grant of temporary exemptions as they did in this petition for rulemaking.

#### IV. Proposed Amendments

After careful review of the information submitted by the petitioners, NHTSA tentatively agrees with the petitioners and proposes to amend FMVSS No. 224 to exclude RCC horizontal discharge trailers from the standard.

We recognize the unique issues associated with installing underride guards on RCC horizontal discharge trailers. The current petition for rulemaking, as well as earlier petitions for temporary exemptions, outlined petitioner's efforts to bring RCC horizontal discharge trailers in compliance with FMVSS No. 224 for the past 5 years. The agency believes that petitioner's contention that no practicable solution exists may have merit.<sup>8</sup>

We note that when prescribing a motor vehicle safety standard, NHTSA

removed by the owners of the trailers, since the standard applies only to new vehicles. However, such a solution is inconsistent with the overall intent of the standard, which is to reduce the likelihood of underride collisions on U.S. highways.

<sup>8</sup>E.D. Etnyre & Co. (Etnyre), the only other manufacturer of horizontal discharge trailers, has built a horizontal discharge trailer with a "combination of retractable chutes, and wheels back configuration" to meet FMVSS No. 224 (see NHTSA Docket No. 2001-8827-19). According to the petitioners, however, field experience demonstrated insurmountable real world practicability issues that compromised any potential safety benefits. As a result, Etnyre is no longer offering trailers with retractable underride guards. Instead, they redesigned their product to fall under wheels back exception (NHTSA Docket No. 2001-8827-25). Furthermore, in a letter dated August 8, 2002 (Docket No. NHTSA-2003-14396-1), Etnyre, along with Dan Hill and Red River, noted that the complex retraction mechanism requires operator interaction to reposition the guard after each offload cycle, thereby compromising the potential safety benefits of the retractable underride guard.

is required by 49 U.S.C. 30111(b)(3) to ensure that the standard is reasonable, practicable, and appropriate for the particular type of motor vehicle equipment for which it is prescribed. As discussed above, petitioners have raised several arguments that the application of FMVSS No. 224 to RCC horizontal discharge trailers is impracticable. Given the difficulties experienced in manufacturing a compliant discharge trailer, we are proposing to exclude such vehicles from the standard.

The agency examined possible safety consequences of excluding RCC horizontal discharge trailers from FMVSS No. 224. We note that the geometry of an RCC horizontal discharge trailer is very similar to that of a wheels back trailer. The risk of a severe underride collision is reduced by the fact that the rear-most axle of the RCC horizontal discharge trailer is located between 24 and 33 inches from the rear extremity of the vehicle. Although this falls short of the 305 mm (12 inches) exemption for wheels back trailers, the likelihood of PCI intrusion is nevertheless reduced by the proximity of rear axle to the rear extremity of the trailer. It appears that the distance between the rear axle and the rear extremity of the trailer cannot be shortened any further, if the floor conveyor that delivers the asphalt is to fit over the paving machine.

Additionally, we note that RCC horizontal discharge trailers travel on U.S. highways only infrequently, to deliver the hot asphalt mix to the construction sites. These vehicles spend most of their time in a controlled environment of a construction site, surrounded by other paving equipment and construction traffic control equipment (e.g., traffic cones, safety signs), where a risk of underride collision is virtually nonexistent.<sup>9</sup>

In light of our findings, this NPRM proposes to amend FMVSS No. 224 by adding RCC horizontal discharge trailers to the list of excluded vehicles in S3 of the Standard. We are proposing to include a precise definition of a road construction controlled horizontal discharge semitrailers to the standard,

<sup>9</sup>Neither Fatal Analysis Reporting System (FARS), the National Automotive Sampling System (NASS), nor the General Estimates System (GES) data files that we have examined include crash information pertaining specifically to horizontal discharge trailers. We have examined underride and horizontal discharge trailer information from hard copies of police accident reports (PARs) for 74 selected 1999-2001 FARS cases and 75 cases from the 1999-2001 NASS on-line summary files. A careful examination of photographs (where available) and other related information yielded no indication of rear end collisions involving horizontal discharge trailers.

in order to ensure that the standard excludes only the type of the vehicle discussed in this notice. The proposed definition of a road construction controlled horizontal discharge trailer is "a trailer or semitrailer that is equipped with a mechanical drive and a conveyor to deliver asphalt and other road building materials, in a controlled horizontal manner, into a lay down machine or paving equipment for road construction and paving operations."

#### V. Estimated Costs and Benefits

If RCC horizontal discharge trailers are excluded from FMVSS No. 224, petitioners would realize financial gains associated with ability to continually manufacture and market their product. Currently, their ability to offer RCC horizontal discharge trailers depends on temporary exemptions. Further, those manufacturers who may have suffered sale volume losses as a result of offering a wheels back design unpopular with typical RCC horizontal discharge trailer purchasers, may once again gain market share by offering a product that is more suitable to the industry needs. The actual costs savings are difficult to estimate because petitioners have not been able to produce a viable underride guard for the equipment in question.

There would be no safety benefits associated with this proposed rulemaking. As discussed previously, we anticipate that due to very limited production figures and limited highway use exposure, there is minimal safety disbenefits associated with the proposed rulemaking.

#### VI. Request for and Submission of Comments

The agency requests comments on today's proposal. Specifically, NHTSA is interested in comments on the following questions.

1. Is a wheels back design a practical vehicle design alternative for RCC horizontal discharge trailers? Please provide data and information to support your response.

2. What is the maintenance and performance history of RCC horizontal discharge trailers with wheels back design?

3. Is a retractable underride guard design a practical solution for RCC horizontal discharge trailers? Does such a design create a risk of injury to workers operating or working near the trailer? Please provide data and information to support your response.

4. What is the maintenance and performance history of RCC horizontal discharge trailers with retractable underride guards?

5. Has any manufacturer of RCC horizontal discharge trailers subject to this notice been able to alternatively design a compliant vehicle equipped with an underride guard, that is able to slide over the paving machine in order to discharge asphalt mix?

The comment period for this proposal is 30 days. As noted above, 2 of the 3 manufacturers of RCC horizontal discharge trailers have filed petitions asking to renew their existing temporary exemptions from the Standard. If a final rule excluding RCC horizontal discharge trailers is issued, NHTSA believes the rulemaking process should be completed before there is any need to file the fourth petition for a temporary exemption. Additionally, NHTSA believes that a speedy resolution of this issue will be in the best interest of Etnyre as it would no longer be limited to vehicle designs that fit within an existing exclusion, but may cause practical impediments to the safe operation of the trailers in their intended environment. Accordingly, we have determined that a 30-day comment period best serves the public interest.

The following information is provided in a question and answer format to assist interested parties in providing comments on this document.

#### *How Do I Prepare and Submit Comments?*

Your comments must be written in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

#### *How Can I Be Sure That My Comments Were Received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket

Management will return the postcard by mail.

#### *How Do I Submit Confidential Business Information?*

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

#### *Will the Agency Consider Late Comments?*

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

#### *How Can I Read the Comments Submitted by Other People?*

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).

(2) On that page, click on "search."

(3) On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired

comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

## **VII. Rulemaking Analyses and Notices**

### *a. Executive Order 12866 and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of the proposed rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This NPRM was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "nonsignificant" under the Department of Transportation's regulatory policies and procedures. The agency concludes that the impact of the proposed rule is so minimal that preparation of a full regulatory evaluation is not required. The proposed rule would not impose any new requirements or costs on manufacturers, but instead will result in cost savings to manufacturers of road construction controlled horizontal discharge trailers.

### *b. Regulatory Flexibility Act*

NHTSA has considered the impacts of the proposed rulemaking under the Regulatory Flexibility Act. I hereby certify that this proposal would not have a significant economic impact on a substantial number of small entities. The proposal would not impose any new requirements or costs on manufacturers, but instead will exclude manufacturers of road construction controlled horizontal discharge trailers from FMVSS No. 224. Accordingly, there would be no significant impact on small businesses, small organizations, or small governmental units by these amendments. The manufacturers of RCC

horizontal discharge trailers, among them Dan Hill and Red River, may realize certain cost savings because the standard would no longer require them to install underride guards on their RCC horizontal discharge trailers. However, because of the relatively small number of RCC horizontal discharge trailers produced yearly, any potential positive economic impact will not be significant. For these reasons, the agency has not prepared a preliminary regulatory flexibility analysis.

#### *c. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This proposal does not contain any collection of information requirements requiring review under the Paperwork Reduction Act.

#### *d. National Environmental Policy Act*

NHTSA has analyzed this proposal under the National Environmental Policy Act and determined that it would not have a significant impact on the quality of human environment.

#### *e. Executive Order 13132 (Federalism)*

NHTSA has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132, Federalism and has determined that this proposal does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The proposal would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

#### *f. Civil Justice Reform*

This proposal would not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative

proceedings before parties may file suit in court.

#### *g. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The agency searched for, but did not find any voluntary consensus standards relevant to this proposal.

#### *h. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). This rulemaking would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of \$100 million annually.

#### *i. Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### *j. Executive Order 13045*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria,

we 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 us.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health, or safety risks that disproportionately affect children.

#### *k. Plain Language*

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

#### **List of Subjects in 49 CFR Part 571**

Motor vehicle safety standards.

#### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571.224 as set forth below.

1. The authority citation for part 571 would continue to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.224 would be amended as follows:

- a. By revising paragraph S3; and
- b. By revising the definition for "Road construction controlled horizontal discharge trailer" in paragraph S4.

The revised text is set forth as follows:

#### **§ 571.224 Standard No. 224; Rear Impact Protection**

\* \* \* \* \*

S3. Application. This standard applies to trailers and semitrailers with a GVWR of 4,356 kg or more. The standard does not apply to pole trailers,



pulpwood trailers, road construction controlled horizontal discharge trailers, special purpose vehicles, wheels back vehicles, or temporary living quarters as defined in 49 CFR 529.2. If a cargo tank motor vehicle, as defined in 49 CFR 171.8, is certified to carry hazardous materials and has a rear bumper or rear end protection device conforming with 49 CFR part 178 located in the area of the horizontal member of the rear underride guard required by this standard, the guard need not comply with the energy absorption requirement (S5.2.2) of 49 CFR 571.223.

S4. Definitions.

\* \* \* \* \*

*Road construction controlled horizontal discharge trailer* means a trailer or semitrailer that is equipped with a mechanical drive and a conveyor to deliver asphalt and other road building materials, in a controlled horizontal manner, into a lay down machine or paving equipment for road construction and paving operations.

\* \* \* \* \*

Issued: September 15, 2003.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 03-23960 Filed 9-18-03; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 010903D]

#### Atlantic Highly Migratory Species (HMS); Atlantic Shark Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Rescheduling of public hearings; extension of comment period.

**SUMMARY:** Due to concern regarding the path of Hurricane Isabel, NMFS is canceling two public hearings that were previously published in the **Federal Register** on August 12, 2003, and scheduled for September 17, 2003, in Pawleys Island, SC and September 22, 2003, in Manteo, NC. The public hearings are rescheduled for October 1, 2003, in Manteo, NC, and October 2,

2003, in Pawleys Island, SC. These hearings are being held to receive comments from fishery participants and other members of the public regarding proposed shark regulations and draft Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (Amendment 1). Due to rescheduling the hearings, NMFS is also extending the comment period of the proposed rule for Amendment 1, published in the **Federal Register** on August 1, 2003, from September 30, 2003, to October 3, 2003.

**DATES:** The public hearings will be held on:

1. Wednesday, October 1, 2003, from 7 – 9 p.m. in Manteo, NC, and
2. Thursday, October 2, 2003, from 7 – 9 p.m. in Pawleys Island, SC.

Comments on the proposed rule for Amendment 1, published at 68 FR 45196, August 1, 2003, must be received no later than 5 p.m., on October 3, 2003.

**ADDRESSES:** The public hearings will be held in:

1. North Carolina Aquarium, Roanoke Island, Airport Road, Manteo, NC 27954, and
2. Waccamaw Neck Branch Library, 24 Commerce Dr., Pawleys Island, SC 29585.

Written comments on this action should be mailed to Christopher Rogers, Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to (301) 713-1917. Comments will not be accepted if submitted via email or Internet. Copies of draft Amendment 1 can be obtained from the HMS website at: <http://www.nmfs.noaa.gov/sfa/hmspg.html>.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, Heather Stirratt, or Chris Rilling at (301) 713-2347 or Greg Fairclough at (727) 570-5741.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), finalized in 1999, is implemented by regulations at 50 CFR part 635. On August 1, 2003 (68 FR 45196), NMFS published in the **Federal Register** a proposed rule that would amend some of the regulations in the HMS FMP. Complete descriptions of the measures, as well as the purpose and need for the

proposed actions, are contained in the proposed rule and are not repeated here.

On August 12, 2003 (68 FR 47904), NMFS published in the **Federal Register** notice of six public hearings. Due to concern regarding the path of Hurricane Isabel, NMFS is canceling and rescheduling two of those public hearings. The hearing previously scheduled for September 17, 2003, in Pawleys Island, SC, is now scheduled for October 2, 2003, in Pawleys Island, SC (see **DATES** and **ADDRESSES**). The hearing previously scheduled for September 22, 2003, in Manteo, NC, is now scheduled for October 1, 2003, in Manteo, NC (see **DATES** and **ADDRESSES**). The schedule for the other public hearings remains unchanged.

Additionally, in order to incorporate these rescheduled hearings during the public comment period, NMFS is extending the public comment period on the proposed rule until 5 p.m. on October 3, 2003.

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a NMFS representative will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the hearing.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heather Stirratt, (301) 713-2347, at least 7 days prior to the hearing in question.

Dated: September 16, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 03-24113 Filed 9-17-03; 1:54 pm]

BILLING CODE 3510-22-S



# Notices

Federal Register

Vol. 68, No. 182

Friday, September 19, 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

### Forest Service

#### Fresno County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Fresno County Resource Advisory Committee will meet in Prather, California. The purpose of the meeting is to discuss and to recommend project proposals for FY 2004 funds regarding the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) for expenditure of Payments to States Fresno County Title II funds.

**DATES:** The meeting will be held on October 14, 2003 from 6:30 pm to 9:30 pm.

**ADDRESSES:** The meeting will be held at the Sierra National Forest, High Sierra Ranger District, 29688 Auberry Road, Prather, California, 93651. Send written comments to Rick Larson, Fresno County Resource Advisory Committee Coordinator, c/o Sierra National Forest, High Sierra Ranger District, 29688 Auberry Road, Prather, CA 93651 or electronically to [relarson@fs.fed.us](mailto:relarson@fs.fed.us).

**FOR FURTHER INFORMATION CONTACT:** Rick Larson, Fresno County Resource Advisory Committee Coordinator, (559) 855-5355 ext. 3319.

**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 Payments to States Fresno County Title II project matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public sessions will be provided and individuals who made written requests by October 14, 2003 will have the opportunity to address the Committee at those sessions. Agenda items to be

covered include: (1) Call for new projects; (2) Discussion on lack of attendance by committee members (3) report back from project recipients; (4) public comment.

Dated: September 11, 2003.

**Ray Porter,**

*District Ranger.*

[FR Doc. 03-23823 Filed 9-18-03; 8:45 am]

**BILLING CODE 3410-11-M**

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Proposed Additions and Deletion

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletion from Procurement List.

**SUMMARY:** The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a service previously furnished by such agencies.

*Comments Must be Received on or Before:* October 19, 2003.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

#### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities.

The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

#### End of Certification

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

#### Products

*Product/NSN:* Can Opener, M.R. 1841.

*Product/NSN:* Vegetable Peeler, M.R. 1842.

*NPA:* Cincinnati Association for the Blind, Cincinnati, Ohio.

*Contract Activity:* Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

*Product/NSN:* Safety Armband, M.R. 1756, M.R. 1759.

*NPA:* L.C. Industries For The Blind, Inc., Durham, NC, at its facility in Hazlehurst, Mississippi.

*Contract Activity:* Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

*Product/NSN:* Wobble Wedges, M.R. 1835.

*NPA:* West Texas Lighthouse for the Blind, San Angelo, Texas.

*Contract Activity:* Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

#### Deletion

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the service proposed for deletion from the Procurement List.

#### End of Certification

The following service is proposed for deletion from the Procurement List:

#### Service

*Service Type/Location:* Grounds

Maintenance, Vacant Family Housing Quarters, Fort Campbell, Kentucky.

*NPA:* Progressive Directions, Inc., Clarksville, Tennessee.

*Contract Activity:* Department of the Army, Fort Campbell, Kentucky.

**Sheryl D. Kennerly,**

*Director, Information Management.*

[FR Doc. 03-23951 Filed 9-18-03; 8:45 am]

**BILLING CODE 6353-01-P**

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**EFFECTIVE DATE:** October 19, 2003.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** On June 6, July 11, and 18, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 33908, 41297, and 42684/42685) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the product and services proposed for addition to the Procurement List.

#### End of Certification

Accordingly, the following product and services are added to the Procurement List:

#### Product

*Product/NSN:* Document Protector 7510-01-236-0059.

*NPA:* L.C. Industries For The Blind, Inc., Durham, North Carolina.

*Contract Activity:* Office Supplies & Paper Products Acquisition Center, New York, New York.

#### Services

*Service Type/Location:* Janitorial/Custodial National Personnel Records Center, St. Louis, Missouri.

*NPA:* Challenge Unlimited, Inc., Alton, Illinois.

*Contract Activity:* GSA, Service Contracts (6PEF-C), Kansas City, Missouri.

*Service Type/Location:* Janitorial/Grounds and Related Services, Robert F. Peckham Federal Building and U.S. Courthouse, San Jose, California.

*NPA:* Hope Rehabilitation Services, Santa Clara, California.

*Contract Activity:* GSA, Public Buildings Service (9PMFC), San Francisco, California.

*Service Type/Location:* Reproduction and Courier Service Naval Facilities Engineering Command, Engineering Field, Activity—Chesapeake, Washington, DC.

*NPA:* Sheltered Occupational Center of Northern Virginia, Inc., Arlington, Virginia.

*Contract Activity:* Naval Facilities Engineering Command, EFA-Chesapeake, Washington, DC.

This action does not affect current contracts awarded prior to the effective

date of this addition or options that may be exercised under those contracts.

**Sheryl D. Kennerly,**

*Director, Information Management.*

[FR Doc. 03-23952 Filed 9-18-03; 8:45 am]

**BILLING CODE 6353-01-P**

### DEPARTMENT OF COMMERCE

#### Foreign-Trade Zones Board

[Docket 29-2003]

#### Wacker Chemical Corporation—Application for Subzone Status; Extension of Comment Period

The comment period for the application for subzone status at the Wacker Chemical Corporation in Adrian, Michigan, submitted by the Greater Detroit Foreign-Trade Zone, Inc. (68 FR 38009, June 26, 2003), is being extended again, to October 27, 2003 to allow interested parties additional time in which to comment. Rebuttal comments may be submitted during the subsequent 15 day period, until November 11, 2003. 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.

Dated: September 12, 2003.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 03-23966 Filed 9-18-03; 8:45 am]

**BILLING CODE 3510-DS-P**

### DEPARTMENT OF COMMERCE

#### Foreign-Trade Zones Board

[Docket 46-2003]

#### Foreign-Trade Zone 61—San Juan, PR, Application for Expansion of Scope of Manufacturing Authority, Pepsi-Cola Manufacturing International, Ltd.—Subzone 61J (Soft Drink and Juice Beverage Concentrates)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Exports Development Corporation, grantee of FTZ 61, pursuant to section 400.32(b)(2)

of the Board's regulations (15 CFR part 400), requesting authority on behalf of Pepsi-Cola Manufacturing International, Ltd. (PCMIL), operator of FTZ 61J, at the PCMIL soft drink and juice beverage concentrate manufacturing plant in Cidra, Puerto Rico, requesting an expansion of the scope of manufacturing authority to include additional finished products and manufacturing capacity under FTZ procedures. It was formally filed on September 12, 2003.

PCMIL operates a facility (171 employees) within the Cidra Industrial Park, in Cidra, Puerto Rico, which is used to produce flavoring concentrates for soft drink beverages under FTZ procedures for the U.S. market and export (Board Order 926, 62 FR 55574, 10-27-97).

The applicant currently requests that the scope of manufacturing authority be expanded to include the manufacture of fruit juice beverage concentrate products marketed under the Dole, Tropicana Season's Best, and Tropicana Twister brands. The application also requests that the scope of authority for sourcing foreign ingredients used in production be extended to include: Banana puree, and fruit juice concentrates (passion, white grape, orange, pear, concord grape, red grape, grapefruit, pineapple) (2003 duty rate range: Free-10%, 0.5¢-7.9¢/liter). Production authority under FTZ procedures would be increased to approximately 5,000 40-foot shipping containers annually.

FTZ procedures would continue to exempt PCMIL from Customs duty payments on the foreign ingredients used in production for export. On its domestic sales and exports to NAFTA countries, the company can choose the lower duty rates that apply to finished beverage concentrates (free, 6.4%) for the foreign ingredients noted above. In accordance with § 400.32(b)(2) of the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at 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 Street, NW., Washington, DC 20005; or,

2. *Submissions via the U.S. Postal Service:* Foreign-Trade Zones Board, U.S. Department of Commerce, FCB-4100W, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is November 3, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 18, 2003.

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address No. 1 listed above.

Dated: September 12, 2003.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 03-23965 Filed 9-18-03; 8:45 am]

**BILLING CODE 3510-DS-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-818, C-475-819]

#### **Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**ACTION:** Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders.

**SUMMARY:** On April 27, 2000, the Department of Commerce (the Department) self-initiated an anti-circumvention inquiry to determine whether an Italian producer of pasta is circumventing the antidumping and countervailing duty orders on certain pasta from Italy, issued July 24, 1996. The period of inquiry is July 1, 1998 through June 30, 1999. On August 6, 2003, we preliminarily determined that certain pasta produced in Italy by Pastificio Fratelli Pagani S.p.A. (Pagani) and exported to the United States in packages of greater than five pounds, which are subsequently repackaged in the United States into packages of five pounds or less, constitutes circumvention of the antidumping and countervailing duty orders on certain pasta from Italy, within the meaning of section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(g). We invited interested parties to comment on our preliminary determinations. Interested parties did not submit case briefs or request a hearing. Consequently, our preliminary determinations remain unchanged for these final determinations.

**EFFECTIVE DATE:** September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Zev Primor or Ronald Trentham, AD/CVD Enforcement, Office IV, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-4114 or (202) 482-6320.

#### **SUPPLEMENTARY INFORMATION:**

##### **Scope of Antidumping and Countervailing Duty Orders**

Imports covered by these orders are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by Bioagricoop S.r.L., by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.L.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (*HTSUS*). Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to these orders is dispositive.

##### **Scope Rulings**

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, on file in the Central Records Unit (CRU) of the main Commerce Building, Room B-099.

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. See Letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., dated July 30, 1998, on file in the CRU.

(3) On October 23, 1997, the petitioners filed a request that the Department initiate an anti-circumvention investigation against Barilla S.r.L. (Barilla). On October 5, 1998, the Department issued a final determination that, pursuant to section 781(a) of the Act, Barilla was circumventing the antidumping duty order by exporting bulk pasta from Italy which it subsequently repackaged in the United States into packages of five pounds or less for sale in the United States. See *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672 (October 13, 1998) (*Barilla Circumvention Inquiry*).

(4) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing up to (and including) five pounds four ounces, and so labeled, is within the scope of the antidumping and countervailing duty orders. See Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, on file in the CRU.

#### **Scope of the Anti-Circumvention Inquiry**

The product subject to this anti-circumvention inquiry is certain pasta produced in Italy by Pagani and exported to the United States in packages of greater than five pounds (2.27 kilograms) that meets all the requirements for the merchandise subject to the antidumping and countervailing duty orders, with the exception of packaging size, and which is repackaged into packages of five pounds (2.27 kilograms) or less after entry into the United States.

#### **Background**

On August 30, 1999, we issued an antidumping questionnaire to Pagani for

the third administrative review of the antidumping duty order, covering the period July 1, 1998 through June 30, 1999. In its October 1, 1999, questionnaire response, Pagani stated that it “exported sacks of non-subject bulk pasta for repackaging after importation.” Based upon our verification of Pagani’s questionnaire responses in the third administrative review, we initiated this inquiry. See *Certain Pasta from Italy: Notice of Initiation of Anti-circumvention Inquiry on the Antidumping and Countervailing Duty Orders*, 65 FR 26179 (May 5, 2000) (*Notice of Initiation*). Since the initiation of this inquiry, the following events have occurred.

On May 10, 2000, the Department issued a circumvention questionnaire to Pagani. We requested information with respect to Pagani’s corporate structure, sales and shipment information, process of repackaging in the United States, value of merchandise repackaged in the United States, and pattern of trade and levels of imports.

On June 14, 2000, Pagani responded to the Department’s questionnaire. Pagani’s response revealed that it did not have its own manufacturing or repackaging facility in the United States. Rather, all of the repackaging activity in the United States was conducted by an unaffiliated party. Section 781(a) of the Act sets forth the criteria the Department must examine when determining whether to include merchandise completed or assembled in the United States within the scope of an existing order. We determined it was necessary to collect information from the unaffiliated U.S. party participating in the repackaging operations to examine these criteria. Accordingly, on December 7, 2000, the Department issued a supplemental circumvention questionnaire to the unaffiliated U.S. repacker and a U.S. customer that participated in repackaging. In addition, on December 7, 2000, we issued a supplemental questionnaire to Pagani. On January 29, 2001, Pagani responded to the Department’s supplemental questionnaire. We did not receive a response from the unaffiliated U.S. repacker or the U.S. customer.

On August 6, 2003, we preliminarily determined that certain pasta produced in Italy by Pagani and exported to the United States in packages of greater than five pounds, which are subsequently repackaged in the United States into packages of five pounds or less, constitutes circumvention of the antidumping and countervailing duty orders on certain pasta from Italy. See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty*

*Orders on Certain Pasta from Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 46571 (August 6, 2003) (*Notice of Preliminary Determinations*). We invited interested parties to comment on our preliminary determinations. Interested parties did not submit case briefs or request a hearing.

#### **Analysis**

As detailed in the *Notice of Preliminary Determinations*, to make an affirmative determination of circumvention, the elements under section 781(a)(1) of the Act must be satisfied, taking into account the factors under section 781(a)(2) and 781(a)(3) of the Act. For these final determinations, we adopt the analysis set forth in the *Notice of Preliminary Determinations*, and determine that during the period examined there was circumvention of the orders as a result of Pagani’s repackaging. First, the merchandise repackaged and sold in the United States is within the same class or kind of merchandise that is subject to the order. Second, bulk pasta was exported to the United States and then assembled into smaller packages of five pounds or less after importation. Third, we find that the process of assembly or completion in the United States is minor and insignificant, since (A) the level of investment in the United States is minimal; (B) the level of research and development in the United States is non-existent; (C) the nature of the production process in the United States is minor relative to the entire process of pasta production; (D) the extent of the production facilities in the United States is limited; and (E) the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States. See *Notice of Preliminary Determinations*, at 46574–46475. Fourth, the value of imported parts or components is a significant portion of the total value of the merchandise sold in the United States. Thus, we find affirmative evidence of circumvention in accordance with sections 781(a)(1) and (2) of the Act.

We next considered the factors required by section 781(a)(3) of the Act, in reaching our determinations. As explained in detail in the *Notice of Preliminary Determinations*, the facts concerning pattern of trade, sourcing, affiliation, and import trends indicate during the period under consideration there was circumvention of the pasta orders. Consequently, our statutory requirements lead us to find that during the period examined there was

circumvention of the orders as a result of the repackaging operation discussed above.

### Certification Option

Pagani certified that the U.S. repackaging operation, which began in the third quarter of 1997, was terminated for long cuts in 1999. With regard to short cuts, Pagani submitted a certification from the U.S. repacker stating that short cuts of pasta from Pagani were last invoiced on February 8, 2000. Thus, Pagani asserts that the repackaging operations have ceased.

As discussed in the *Notice of Preliminary Determinations*, Pagani requested that the Department implement a certification scheme, whereby each of Pagani's unaffiliated U.S. customers would certify that it would resell all pasta purchased from Pagani in the packaging in which the pasta was delivered to the U.S. customer, and would not repack any pasta from packages greater than five pounds into packages of five pounds or less. According to Pagani, this scheme would enable the Department to exclude from the scope of the antidumping and countervailing duty orders bulk pasta that was not destined for repackaging after importation, e.g., bulk pasta shipped directly to institutional or food service users.

For these final determinations, we determine to adopt the certification scheme proposed by Pagani. According to that scheme, Pagani and each of Pagani's unaffiliated customers who purchase bulk pasta would certify that the customer would not repackage any bulk pasta into packages of five pounds or less.

### Suspension of Liquidation

We have made affirmative final determinations that Pagani's activities for the repacking of bulk pasta into packages of five pounds or less for sale in the United States constitute circumvention. The merchandise subject to suspension of liquidation is pasta in packages of greater than five pounds as defined in the *Scope of the Anti-Circumvention Inquiry* section of this notice, unaccompanied by the appropriate certification.

In accordance with section 773(d) of the Act, the Department normally would direct the U.S. Bureau of Customs and Border Protection (BCBP) to suspend liquidation and to require a cash deposit of estimated duties, at the applicable rate, on all unliquidated entries of bulk pasta from Italy produced by Pagani, not accompanied by appropriate certification, that were entered, or withdrawn from warehouse, for

consumption on or after April 27, 2000, the date of initiation of this anti-circumvention inquiry. However, due to cessation of Pagani's circumvention activity, the Department will not instruct BCBP to require such certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the order is being again circumvented. If such information is provided, we will require certification only for the product(s) for which evidence is provided that such products are being used in the circumvention of the order. Normally we will require only the importer of record to certify to the end-use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require Pagani to provide such certification on invoices accompanying shipments to the United States. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and the Republic of South Africa*, 65 FR 25907 (May 4, 2000).

These affirmative final circumvention determinations are in accordance with section 781(a) of the Act and 19 CFR 351.225.

Dated: September 12, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-23961 Filed 9-18-03; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-853]

#### Notice of Amended Final Results of Antidumping Duty Administrative Review: Bulk Aspirin from the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Amended Final Results of Antidumping Duty Administrative Review.

**EFFECTIVE DATE:** September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Julie Santoboni or Blanche Ziv, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-4194 or (202) 482-4207, respectively.

### SUPPLEMENTARY INFORMATION:

#### Scope of Review

The product covered by this review is bulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder (pharmaceutical form). This product has the chemical formula  $C_9H_8O_4$ . It is defined by the official monograph of the United States Pharmacopoeia ("USP") 23. It is classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 2918.22.1000.

Mixed ortho-acetylsalicylic acid consists of ortho-acetylsalicylic acid combined with other inactive substances such as starch, lactose, cellulose, or coloring materials and/or other active substances. The presence of other active substances must be in concentrations less than that specified for particular nonprescription drug combinations of bulk aspirin and active substances as published in the *Handbook of Nonprescription Drugs*, eighth edition, American Pharmaceutical Association. This product is classified under HTSUS subheading 3003.90.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### Amended Final Results

On August 7, 2003, the Department of Commerce ("the Department") determined that bulk aspirin from the People's Republic of China ("PRC") is not being sold in the United States at less than fair value, as provided in section 751(a) of the Tariff Act of 1930, as amended ("the Act"). See *Bulk Aspirin from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 68 FR 48337 (August 13, 2003) ("Final Results"). On August 18, 2003, Rhodia, Inc. ("petitioner"), timely filed ministerial error allegations pursuant to 19 CFR 351.224(c)(2).<sup>1</sup> The respondents

<sup>1</sup> On September 10, 2003, the Department received the ministerial error allegation with

in this review, Jilin Henghe Pharmaceutical Company Ltd. (“Jilin”) and Shandong Xinhua Pharmaceutical Co., Ltd. (“Shandong”) did not file ministerial error allegations or comment on the petitioner’s allegations.

The petitioner contends that the Department failed to apply the calculated credit rate to Shandong’s U.S. sales and incorrectly calculated the credit period. In the calculation of the surrogate value for acetic acid for Jilin and Shandong, the petitioner contends that the Department incorrectly deducted taxes from the already tax-

exclusive domestic price of acetic acid sold on the Mumbai Market.

In accordance with section 735(e) of the Act, we have determined that ministerial errors were made in our final results margin calculations. Specifically we find that the incorrect calculation of Shandong’s credit expense and that the incorrect calculation of the domestic price of acetic acid constitute clerical errors. For a detailed discussion of all of the ministerial error allegations and the Department’s analysis, see Memorandum to Susan Kuhbach, “Antidumping Duty Administrative Review of Bulk Aspirin from the

People’s Republic of China; Allegations of Ministerial Errors” dated September 12, 2003 which is on file in the Central Records Unit, room B-099 of the main Department building.

In accordance with 19 C.F.R. 351.224(e), we are amending the final results of the antidumping duty administrative review of bulk aspirin from the PRC to correct these ministerial errors. However, the amended weighted-average margins are identical to the weighted-average margins in the final results (see Final Results). The weighted-average dumping margins for Jilin and Shandong are listed below:

Producer//Manufacturer/Exporter	Original Weighted-average margin percentage	Amended Results Weighted-average margin percentage
Jilin Henghe Pharmaceutical Company Ltd. ....	0.00	0.00
Shandong Xinhua Pharmaceutical Co., Ltd. ....	0.00	0.00

**Cash Deposit Rates**

The following deposit rates will be effective upon publication of these final results for all shipments of bulk aspirin from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) for Shandong and Jilin, which have separate rates, no antidumping duty deposit will be required; (2) for a company previously found to be entitled to a separate rate and for which no review was requested, the cash deposit rate will be the rate established in the most recent review of that company; (3) for all other PRC exporters the cash deposit rate will be 144.02 percent, the PRC-wide rate established in the less than fair value investigation; and (4) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit rates shall remain in effect until publication of the final results of the next administrative review.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Assessment Rates**

The Department will issue appropriate assessment instructions directly to the Bureau of Customs and Border Protection within 15 days of publication of these amended final results of review.

We are issuing and publishing this determination and notice in accordance

with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: September 12, 2003.

**Joseph A. Spetrini,**  
*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-23962 Filed 9-18-03; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-122-838]

**Certain Softwood Lumber Products from Canada: Notice of Final Results of Antidumping Duty Changed Circumstances Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of antidumping duty changed circumstances review.

**SUMMARY:** The Department has determined that entries of certain softwood lumber products produced and exported by Monterra Lumber Mills Limited (Monterra) shall be subject to the “All Others” cash deposit rate of 8.43 percent as of the date of publication of this notice in the **Federal Register**.

**EFFECTIVE DATE:** September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Keith Nickerson or Constance Handley, at (202) 482-3813 or (202) 482-0631, respectively; Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION**

**Background**

As a result of the antidumping duty order issued following the completion of the less-than-fair-value investigation of certain softwood lumber products from Canada, imports of softwood lumber from Monterra, a subsidiary of respondent company Weyerhaeuser Company Limited (Weyerhaeuser), became subject to a cash deposit rate of 12.39 percent (*See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order: Certain Softwood Lumber Products from Canada*, 67 FR 36068 (May 22, 2002)). On February 4, 2003, Monterra notified the Department that effective December 23, 2002, Weyerhaeuser sold its interest in Monterra to 1554545 Ontario, Inc. (1554545 Ontario), a wholly owned subsidiary of Tercamm Corp., a privately owned Canadian investment company. As a result, Monterra requested that the Department conduct a changed circumstances review in order to conclude that, effective December 23, 2002, it should be subject to the “All Others” cash deposit rate of 8.43 percent, rather than Weyerhaeuser’s 12.39 percent rate. On March 27, 2003, the Department published a notice of initiation of a changed circumstances review to determine whether entries naming Monterra as manufacturer and exporter

amended bracketing of business proprietary information from Rhodia.

should receive the "All Others" cash deposit rate of 8.43 percent.

On April 29, 2003, Monterra, at the request of the Department, submitted additional information and documentation regarding its sale by Weyerhaeuser to 1554545 Ontario. On May 8, 2003, the petitioner<sup>1</sup> submitted comments on the information provided by Monterra and requested that the Department issue a supplemental questionnaire. On May 21, 2003, the Department issued a supplemental questionnaire requesting further details and documentation surrounding the sale and purchase, which were provided by Monterra in its subsequent submission of June 4, 2003. The petitioner did not comment on Monterra's June 4, 2003, submission.

On July 25, 2003, the Department published the preliminary results of this changed circumstances review and preliminarily determined that entries naming Monterra as manufacturer and exporter should receive the "All Others" cash deposit rate of 8.43 percent. *See Certain Softwood Lumber Products From Canada: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review*, 68 FR 44048 (July 25, 2003) (Preliminary Results). In addition, we denied Monterra's request to have the cash deposit rate of 8.43 percent made effective as of December 23, 2002. In the Preliminary Results, we stated that interested parties could request a hearing or submit case briefs and/or written comments to the Department no later than 30 days after publication of the Preliminary Results notice in the **Federal Register**, and submit rebuttal briefs, limited to the issues raised in those case briefs, seven days subsequent to this due date. We did not receive any hearing requests or comments on the Preliminary Results.

#### Scope of the Order

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products) as previously identified and described in the preliminary results of this changed circumstances review.

#### Final Results of Changed Circumstances Review

Based on the information provided by Monterra and the fact that the Department did not receive any comments during the comment period following the preliminary results of this review, the Department hereby

determines that entries of certain softwood lumber products produced and exported by Monterra shall receive the "All Others" cash deposit rate of 8.43 percent. In addition, because cash deposits are only estimates of the amount of antidumping duties that will be due, changes in cash deposit rates are not made retroactively. Accordingly, we are denying Monterra's request to have the cash deposit rate of 8.43 percent made effective as of December 23, 2002. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Changed-Circumstances Antidumping and Countervailing Duty Administrative Reviews*, 64 FR 66,880 (November 30, 1999). The new deposit rate will become effective upon publication of this notice in the **Federal Register**.

#### Instructions to the U.S. Bureau of Customs and Border Protection (BCBP)

The Department will instruct the BCBP to apply the "All Others" cash deposit rate of 8.43 percent to all shipments of the subject merchandise produced and exported by Monterra entered, or withdrawn from warehouse, for consumption, on or after the publication date of this notice. This cash deposit rate shall remain in effect until publication of the final results of the on-going administrative review.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(b)(5).

Dated: September 15, 2003.

**James J. Jochum**,

*Assistant Secretary for Import Administration.*

[FR Doc. 03-23963 Filed 9-18-03; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-830]

#### Stainless Steel Plate in Coils From Taiwan: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of extension of time limit for the final results of antidumping duty administrative review.

**EFFECTIVE DATE:** September 19, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Catherine Bertrand, AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482-3207.

#### Background

On June 4, 2003, the Department of Commerce ("the Department") published the preliminary rescission of the administrative review of the antidumping duty order on stainless steel plate in coils from Taiwan. *See Preliminary Rescission of Antidumping Duty Administrative Review: Stainless Steel Plate in Coils from Taiwan*, 68 FR 33472 (June 4, 2003). The final results of this administrative review are currently due no later than October 2, 2003.

#### Extension of Time Limit for Preliminary Results

Due to the complexity of issues present in this administrative review, such as complicated affiliation issues and middleman dumping allegations, the Department has determined that it is not practicable to complete this review within the original time period provided in section 751(a)(3)(A) of the Tariff Act of 1930, as amended, and section 351.213(h)(2) of the Department's regulations. Given the complexity of these issues and the large amount of information collected during the review, the Department needs additional time to review the record of this proceeding and make a determination. Therefore, we are extending the due date for the final results by 30 days, until no later than November 1, 2003.

<sup>1</sup> The petitioner in this proceeding is the Coalition for Fair Lumber Imports Executive Committee.



Dated: September 15, 2003.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Import Administration, Group III.*

[FR Doc. 03-23964 Filed 9-18-03; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of issuance of an amended Export Trade Certificate of Review, Application No. 84-14A12.

**SUMMARY:** The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to Northwest Fruit Exporters ("NFE") on June 11, 1984. Notice of issuance of the Certificate was published in the **Federal Register** on June 14, 1984 (49 FR 24581).

**FOR FURTHER INFORMATION CONTACT:** Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or e-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-4021) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2002).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

#### Description of Amended Certificate

Export Trade Certificate of Review No. 84-00012, was issued to NFE on June 11, 1984 (49 FR 24581, June 14, 1984) and previously amended on May 2, 1988 (53 FR 16306, May 6, 1988); September 21, 1988 (53 FR 37628, September 27, 1988); September 20, 1989 (54 FR 39454, September 26, 1989); November 19, 1992 (57 FR 55510, November 25, 1992); August 16, 1994 (59 FR 43093, August 22, 1994); November 4, 1996 (61 FR 57850, November 8, 1996); October 22, 1997

(62 FR 55783, October 28, 1997); November 2, 1998 (63 FR 60304, November 9, 1998); October 20, 1999 (64 FR 57438, October 25, 1999); October 16, 2000 (65 FR 63567, October 24, 2000); October 5, 2001 (66 FR 52111, October 12, 2001); and October 3, 2002 (67 FR 62957, October 9, 2002).

NFE's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Cervantes Packing and Storage, LLC, Sunnyside, Washington; Fox Orchards, Mattawa, Washington; and Garrett Ranches Packing, Wilder, Idaho;

2. Delete the following companies as "Members" of the Certificate: Keystone Fruit Co., L.L.C. dba Keystone Ranch, Riverside, Washington; Naumes, Inc., Chelan, Washington; Phillippi Fruit Co., Inc., Wenatchee, Washington; and Valicoff Fruit Company, Wapato, Washington; and

3. Change the listing of the following Members: "Bertha's Marketing, Inc., Wenatchee, Washington" to the new listing "Bertha's Marketing Inc., Wenatchee, Washington"; "Lloyd Garretson, Co., Yakima, Washington" to the new listing "Lloyd Garretson Co., Yakima, Washington"; "Sund-Roy, L.L.C., Yakima, Washington" to the new listing "Sund-Roy L.L.C., Yakima, Washington"; "Trout-Blue Chelan, Inc., Chelan, Washington" to the new listing "Chelan Fruit Company, Chelan, Washington"; and "Valley Fruit III, LLC, Wapato, Washington" to the new listing "Valley Fruit III LLC, Wapato, Washington".

The effective date of the amended certificate is June 20, 2003. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information

Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: September 11, 2003.

**Jeffrey C. Anspacher,**

*Director, Office of Export Trading Company Affairs.*

[FR Doc. 03-23967 Filed 9-18-03; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Availability of Seats for the Florida Keys National Marine Sanctuary Advisory Council

**AGENCY:** National Marine Sanctuary Program (NMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The Florida Keys National Marine Sanctuary (FKNMS) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council):

#### Members

Local Elected Official.  
Citizen-at-Large—Middle Keys.  
Citizen-at-Large—Lower Keys.  
Tourism—Upper Keys.  
Tourism—Lower Keys.  
Diving—Upper Keys.  
Diving—Lower Keys.  
Charter Fishing/Flats Guide.  
Commercial Fishing—Shell/Scale.  
Commercial Fishing—Marine/Tropical.  
Conservation and Environment.  
Education/Outreach.  
Research/Monitoring.  
Submerged Cultural Resources.

#### Alternates

Local Elected Official.  
Citizen-at-Large—Middle Keys.  
Citizen-at-Large—Lower Keys.  
Tourism—Upper Keys.  
Tourism—Lower Keys.  
Diving—Upper Keys.  
Diving—Lower Keys.  
Boating.  
Charter Fishing/Flats Guide.  
Charter/Sports Fishing.  
Commercial Fishing—Shell/Scale.  
Commercial Fishing—Marine/Tropical.  
Conservation and Environment (1).  
Conservation and Environment (2).  
Research/Monitoring.  
Submerged Cultural Resources.

**DATES:** Applications are due by October 10, 2003.

**ADDRESSES:** Application kits may be obtained from Fiona Wilmot, FKNMS, P.O. Box 500368, Marathon, FL 33050, [Fiona.Wilmot@noaa.gov](mailto:Fiona.Wilmot@noaa.gov), (305) 743-2437 ext. 27. Address inquiries and return completed applications to her.

**SUPPLEMENTARY INFORMATION:** Is available on the FKNMS Web site at <http://www.fknms.nos.noaa.gov>.

**Authority:** 16 U.S.C. sections 1431, *et seq.* (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)



Dated: September 12, 2003.

**Richard W. Spinrad,**

*Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.*

[FR Doc. 03-23929 Filed 9-18-03; 8:45 am]

BILLING CODE 3510-NK-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 080603B]

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Test Flight Activities from Vandenberg Air Force Base (Vandenberg), CA

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of application for an incidental take authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the 30th Space Wing, U.S. Air Force (USAF) for the harassment of small numbers of pinnipeds incidental to space vehicle and test flight activities from Vandenberg Air Force Base, CA (Vandenberg) between January 1, 2004, and December 31, 2008. As a result of that request, NMFS is considering whether to authorize the incidental taking of marine mammals under Letters of Authorization (LOAs) for this activity. In order to issue LOAs, NMFS must determine that the total taking will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application.

**DATES:** Comments and information must be postmarked no later than October 20, 2003.

**ADDRESSES:** Comments should be addressed to the Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226. A copy of the application may be obtained by writing to this address, or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**). Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Skrupky, NMFS, 301-713-2322, ext 163.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." The MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

## Summary of Request

On September 2, 2003, NMFS received an application from the USAF, under section 101(a)(5)(A) of the MMPA, requesting authorization, effective from January 1, 2004, through December 31, 2008, for the harassment of small numbers of six species of marine mammals incidental to space vehicle and test flight activities conducted by the USAF on Vandenberg. The current regulations and LOA for the same activity will expire on December 31, 2003. New regulations, if implemented, would allow NMFS to continue issuing annual LOAs to USAF at Vandenberg. For detailed information please refer to the previous rulemaking (64 FR 9925, March 1, 1999) and recent LOAs issued on October 8, 1999 (64 FR 54866), June 14, 2000 (65 FR 37361), June 1, 2001 (66 FR 29774), January 22, 2002 (67 FR 2820), and May 12, 2003 (68 FR 25347).

## Description of Activities

Vandenberg is the main west coast launch facility for placing commercial, government, and military satellites into polar orbit in expendable (unmanned) launch vehicles, and for testing and evaluation of intercontinental ballistic missiles and sub-orbital target and interceptor missiles. In addition to space vehicle and missile launches, there are security, aerial photography, training, transport, and search and rescue helicopter operations, and test and evaluation flights of fixed-wing aircraft.

Currently five space launch vehicle programs use Vandenberg to launch satellites into polar orbit, including the Atlas II, Delta II, Minotaur, Taurus, and Titan (II and IV). Two new programs, Evolved Expendable Launch Vehicle (EELV) and Space X, are scheduled to make their inaugural launches at Vandenberg in 2004 with a Boeing Delta IV vehicle. The EELV program will eventually replace many of the other programs, but initially there will be an overlap in the launches of each program. The Space X is a commercial program which will launch small payloads into low earth orbit.

There are a variety of small missiles launched from Vandenberg, including the Peacekeeper, Minuteman III, and several types of interceptor and target vehicles for the National Missile Defense program. The missile launch facilities are spread throughout North Vandenberg and are within 0.65 to 3.9 km (0.40 to 2.4 mi) of the recently occupied Lion's Head haul-out site and approximately 11 to 16.5 km (6.8 to 10.3 mi) north of the Spur Road and Purisima Point harbor seal haul-out sites.

A detailed description of the operations is contained in the USAF application (USAF, 2003) and in the July, 1997 Environmental Assessment, which are available upon request (see **ADDRESSES**). For more information regarding the National Environmental Policy Act documents on launch vehicles at Vandenberg, please contact the 30th Space Wing, U.S. Air Force, 30 CES/CEV, 806 13th Street, Suite 116, Vandenberg AFB, California, 93437.

## Information Sought

This document is being published in conformance with NMFS regulations implementing the incidental take program (50 CFR 216.104(b)(1)(ii)). NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the structure and content of the regulations to allow the taking. NMFS

will consider this information in developing regulations to authorize the taking. Prior to submitting comments, NMFS recommends reviewers of this document read the responses to comments provided for the previous rulemaking for this activity (see 64 FR 9925, March 1, 1999), as NMFS does not intend to address these issues further without the submission of additional scientific information supporting the comment. After NMFS proposes regulations to govern marine mammal take authorizations, it will accept comments on the proposed.

Dated: September 12, 2003.

**Laurie K. Allen,**

*Acting Office Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 03-23993 Filed 9-18-03; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 090403F]

#### Pacific Fishery Management Council; Public Meeting; Correction

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of an addition to a public meeting notice.

**SUMMARY:** The Pacific Fishery Management Council (Council) will convene a public meeting of the Ad Hoc Vessel Monitoring System (VMS) Committee.

**DATES:** The Ad Hoc VMS Committee will meet Tuesday, October 7, 2003 beginning at 8:30 a.m. and continuing until business for the day is completed.

**ADDRESSES:** The meeting will be held in the West Conference Room at the Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384; telephone: (503) 820-2280.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Burner, Pacific Fishery Management Council Groundfish Staff Officer; telephone: (503) 820-2280.

**SUPPLEMENTARY INFORMATION:** The initial notification of this meeting was published in the *Federal Register* on September 15, 2003, (68 FR 53966). The following addition is being made to the agenda:

We will discuss the adoption of transiting only requirements for fixed gear vessels in the non-trawl RCA.

All other information previously published remains the same.

Dated: September 15, 2003.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 03-23992 Filed 9-18-03; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Meeting of the Board of Visitors of Marine Corps University

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Board of Visitors of the Marine Corps University (BOV MCU) will meet to review, develop and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice as is necessary to facilitate high educational standards and cost effective operations. The Board will be discussing the 2005 accreditation process and the quality enhancement plan, the University's Strategic Plan and Mission Statement, the status of Academic Chairs, Senior Leader Development Program, as well as electing a new Chair and Secretary of the Board. All sessions of the meeting will be open to the public.

**DATES:** The meeting will be held on Thursday, October 9, 2003, from 8 a.m. to 5 p.m. and on Friday, October 10, 2003, from 8 a.m. to 11:15 a.m.

**ADDRESSES:** The meeting will be held at the Parris Island, South Carolina, Osprey Inn (Bachelor's Officer Quarters) Osprey Conference Room. The address is Building 289, Parris Island, South Carolina 29905.

**FOR FURTHER INFORMATION CONTACT:** Mary Lanzillotta, Executive Secretary, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number (703) 784-4037.

Dated: September 9, 2003.

**E.F. McDonnell,**

*Major, U.S. Marine Corps, Federal Register Liaison Officer.*

[FR Doc. 03-23911 Filed 9-18-03; 8:45 am]

**BILLING CODE 3810-FF-P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Notice of Intent To Grant Partially Exclusive License; Unique Technologies, Inc.

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The Department of the Navy gives notice of its intent to grant Unique Technologies, Inc., a revocable, nonassignable, partially exclusive license, with exclusive fields of use in commercial and residential bactericide and fungicide, commercial and residential decontamination, fuel additive, post harvest preservation, pre-emergent, fuel additives and frost mediation, in the United States to practice the Government-Owned inventions, U.S. Patent Application Serial Number 10/283,352 entitled "Nitrate-Hydrogen Peroxide Chemical Adducts and Use thereof", U.S. Patent Number 6,165,295 entitled "Gas-Generating Liquid Compositions (PERSOL 1)" and U.S. Patent Number 6,230,491 entitled "Gas-Generating Liquid Compositions (PERSOL 1)."

**DATES:** Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than October 10, 2003.

**ADDRESSES:** Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code OC4, 101 Strauss Avenue, Indian Head, MD 20640-5035.

**FOR FURTHER INFORMATION CONTACT:** Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640-5035, telephone (301) 744-6111.

Dated: September 10, 2003.

**E.F. McDonnell,**

*Major, U.S. Marine Corps, Federal Register Liaison Officer.*

[FR Doc. 03-23912 Filed 9-18-03; 8:45 am]

**BILLING CODE 3810-FF-P**

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services; List of Correspondence

**AGENCY:** Department of Education.

**ACTION:** List of correspondence from April 1, 2003 through June 30, 2003.

**SUMMARY:** The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with

Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of the IDEA or the regulations that implement the IDEA.

**FOR FURTHER INFORMATION CONTACT:** Melisande Lee or JoLeta Reynolds. Telephone: (202) 205-5507 (press 3).

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact persons listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued from April 1, 2003 through June 30, 2003 with the exception of two letters, one dated March 17, 2003, which was inadvertently omitted from the 1st Quarter list, and one dated August 1, 2003, which relates to the subject matter of the March 17, 2003 letter.

Included on the list are those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

#### **Part A—General Provisions**

##### *Section 602—Definitions*

Topic Addressed: Child With a Disability

- Letter dated June 30, 2003 to individual (personally identifiable information redacted), clarifying that although neither the IDEA nor its implementing regulations require that students who are deaf or hard of hearing be assessed to determine their American Sign Language (ASL) skills or proficiency, the individualized education program (IEP) may specify that certain assessment methods be used

to assess the student's proficiency in ASL.

##### *Section 603—Office of special education programs*

Topic Addressed: Responsibilities of the Office of Special Education Programs

- Letter dated April 16, 2003 to the National Council on Disability General Counsel Jeff Rosen, regarding the efforts of the Office of Special Education Programs (OSEP) to focus its monitoring system on better outcomes for infants, toddlers, children and youth with disabilities and their families.

- OSEP memorandum 03-5 dated April 8, 2003 to Chief State School Officers and Lead Agency Directors, regarding OSEP's implementation of the Continuous Improvement and Focused Monitoring System to target resources on those performance issues most closely related to improved results for children with disabilities and to those States most in need of improvement on those performance issues.

#### **Part B—Assistance for Education of all Children with Disabilities**

##### *Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations*

##### *Section 619—Preschool Grants*

Topic Addressed: Allocation of Grants

- OSEP memorandum 03-7 dated April 15, 2003 to State Directors of Special Education, regarding calculating State grants and the determination of the age cohort for which each State ensures the availability of a free appropriate public education (FAPE).

##### *Section 612—State Eligibility*

Topic Addressed: Free Appropriate Public Education

- Letter dated June 27, 2003 to individual (personally identifiable information redacted), clarifying whether Federal funds provided under the IDEA can be used to pay tuition at public or private State-approved special education programs designed to offer parents alternate State-approved school placement options.

Topic Addressed: Least Restrictive Environment

- Letter dated June 26, 2003 to Maryland Disability Law Center Managing Attorney Leslie S. Margolis, clarifying that OSEP does not intervene in State decisions regarding construction of new schools and that there are no statutory or regulatory provisions which require a State to take certain steps before concluding there is

no viable alternative to construction of a new separate facility.

Topic Addressed: State Educational Agency General Supervisory Authority

- Letter dated June 25, 2003 to individual (personally identifiable information redacted), clarifying the State Educational Agency's general supervisory responsibilities and explaining that the IDEA and its implementing regulations do not (1) specify the manner or method in which a State educational agency (SEA) must conduct an independent onsite-investigation of a complaint or (2) require that students with disabilities attain particular graduation rates for a State to meet its obligations under the IDEA.

Topic Addressed: Participation of Children with Disabilities in State and District-Wide Assessments

- Letter dated June 26, 2003 to individual (personally identifiable information redacted), regarding (a) participation by students placed in private schools or facilities in State and district-wide assessments and in alternate assessments; (b) the appropriate configuration and authority of the IEP team; (c) the provision of direct services by the SEA and remedies available under State complaint procedures; (d) the filing of a State complaint in an alternative format and the completeness of a complaint investigation; and (e) procedural safeguards for parents with disabilities.

- Letter dated April 10, 2003 to New York State Education Department Deputy Commissioner Lawrence Gloeckler, regarding a State's ability to (1) determine what accommodations in administration invalidate a test or a part thereof and (2) provide appropriate direction to school districts and IEP teams on issues including the design and constructs measured by various required tests, which accommodations and modifications in administration are valid, and which accommodations and modifications would invalidate the assessment or part of the assessment.

##### *Section 613—Local Educational Agency Eligibility*

Topic Addressed: Charter Schools

- Letter dated April 4, 2003 to Hawaii Department of Education Special Education Director Debra Farmer, clarifying the State's obligations, under its unitary school system and parental choice programs, to provide a FAPE to students with disabilities whose parents choose to place them in a charter school.

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements*

Topic Addressed: Evaluations and Reevaluations

- Letter dated June 26, 2003 to Maryland Department of Education Assistant State Superintendent Carol Ann Baglin, clarifying that (1) the determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the parents and a team of qualified professionals and (2) it would not be inconsistent with the IDEA for a State to require that the child's parent be afforded the opportunity to provide a statement presenting his or her conclusion regarding the determination of eligibility.

- Letter dated April 10, 2003 to New York State Education Department Deputy Commissioner Lawrence Gloeckler, clarifying that (1) the IDEA statute and Part B regulations reflect the clear and unequivocal intent of Congress to support parents' rights to choose whether their children would be enrolled initially in special education and (2) an individual parent's refusal to consent to the initial provision of special education and related services relieves the State's obligation to provide FAPE to that child until the parent provides that consent.

Topic Addressed: Individualized Education Programs

- Letter dated June 4, 2003 to individual (personally identifiable information redacted), regarding the audio or video recording of IEP meetings.

- Letter dated April 2, 2003 to Sonja D. Kerr, Esq., clarifying that neither the IDEA nor the final regulations (1) address the "write-up" of the IEP (whether or not parents must be physically present when the IEP is written is a State issue) or (2) prohibit the parties from using an IEP developed during a conciliation conference or from making offers of settlement or submitting such settlement offers to a hearing officer or court.

*Section 615—Procedural Safeguards*

Topic Addressed: Manifestation Determination Review

- Letter dated August 1, 2003 to Vermont Department of Education Legal Counsel Geoffrey A. Yudien, clarifying that (1) nothing in the IDEA statute or regulations limits a manifestation determination review only to the

disability that served as the basis for the eligibility determination and (2) the ten-day timeline set forth in 34 CFR 300.523(a)(2) is not intended to preclude the IEP team from making an appropriate determination that additional evaluations must be completed in order to make a manifestation determination.

- Letter dated March 17, 2003 to New Hampshire Department of Education Consultant Terry Brune, clarifying that, while the IDEA statute and regulations do not address the issue of conducting more than one manifestation determination review for the same incidence of behavior, any new information regarding the incident could be used as a basis for an IEP meeting to reexamine the student's program and placement.

**Part C—Infants and Toddlers with Disabilities**

*Section 636—Individualized Family Service Plan*

Topic Addressed: Early Intervention Services

- Letter dated June 30, 2003 to individual (personally identifiable information redacted), clarifying that the regulations implementing Part C require that (1) written parental consent be obtained before conducting the initial evaluation and placement of a child and before initiating the provision of early intervention services and (2) there is no provision authorizing public agencies to use mediation or due process procedures to override a parent's refusal to consent to the initial provision of early intervention or special education and related services.

*Section 641—State Interagency Coordinating Council*

Topic Addressed: State Interagency Coordinating Council

- OSEP memorandum 03-6 dated April 15, 2003, regarding the requirements for submitting annual performance reports, and clarifying that a single report can be used to satisfy both the Education Department General Regulations and the Part C Interagency Coordinating Council reporting requirements.

**Electronic Access to This Document**

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/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 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.gpoaccess.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities).

Dated: September 16, 2003.

**Robert H. Pasternack**,  
Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 03-23975 Filed 9-18-03; 8:45 am]

BILLING CODE 4000-01-P

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. ER03-262-001, et al.]

**Order Announcing Commission Inquiry Into Midwest ISO-PJM RTO Issues**

Issued September 12, 2003

Before Commissioners: Pat Wood, III, Chairman; William L. Massey and Nora Mead Brownell.

In the matter of: ER03-262-001, ER03-262-004, ER03-262-005, ER03-262-007, EC98-40-000, ER98-2770-000, ER98-2786-000, EL02-65-006, EL02-65-000 *et al.*, RT01-88-016; The new PJM Companies: American Electric Power Service Corp.; On behalf of its operating companies: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company, Commonwealth Edison Company, and Commonwealth Edison Company of Indiana, Inc. The Dayton Power and Light Company, and PJM Interconnection, LLC, American Electric Power Company, Inc., and Central and South West Corporation, Ameren Services Company, Illinois Power Company.

1. In various proceedings and at a recent technical conference in Wilmington, Delaware,<sup>1</sup> several Midwest and Mid-Atlantic states have supported efforts by their utilities to increase regional coordination by joining regional transmission

<sup>1</sup> This regional technical conference was held on August 28, 2003. See Notice on ("continued") Technical Conference dated August 19, 2003, Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design, Docket No. RM01-12-000.

organizations (RTOs); other states have opposed or barred these efforts by the same utilities. The Commission and some of the Midwest and Mid-Atlantic state commissioners expressed concerns about the current uncertainty regarding RTO formation in the Midwest and requested Commission action to resolve this uncertainty. In this order, the Commission announces an inquiry into RTO issues related to the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and PJM Interconnection LLC (PJM) to be conducted by the Commissioners, participated in by advisory staff, and facilitated by a presiding administrative law judge in the above-captioned proceedings. The purpose of this process is to gather sufficient information for moving forward in resolving the voluntary commitment made by several entities to increase regional coordination by joining RTOs and establish a joint and common market in the Midwest and PJM region. These entities include American Electric Power Company (AEP), Ameren Services Company (Ameren), Commonwealth Edison Company (ComEd), Dayton Power and Light Company (DP&L) and Illinois Power Company (Illinois Power). While these companies have voluntarily agreed to join either Midwest ISO or PJM, they have not yet fulfilled their commitments.

2. By taking this action, the Commission intends to explore ways to resolve the interstate disputes referenced above and enhance regional coordination to establish a joint and common market in the Midwest and PJM region.

### Background

3. On July 31, 2002, the Commission issued two interrelated orders<sup>2</sup> which were designed to help establish a joint and common market in the Midwest and to support the establishment of viable, for-profit transmission companies that operate under an RTO umbrella and may, depending on their level of independence from market participants, perform certain of the RTO functions in the Commission's Order No. 2000.<sup>3</sup> In these orders, the Commission approved

<sup>2</sup> Ameren Services Company, *et al.*, 100 FERC ¶ 61,135 (2002) and Alliance Companies, *et al.*, 100 FERC ¶ 61,137 (2002), *order on reh'g*, 103 FERC ¶ 61,274 (2003).

<sup>3</sup> Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (2000), FERC Stats. & Regs. ¶ 31,092 (2000), *appeal dismissed*, *Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (DC Cir. 2001) (Order No. 2000).

the voluntary commitments of certain utilities in the Midwest to either join Midwest ISO or PJM. Because of the necessity for close regional coordination in the Midwest, the Commission also required that Midwest ISO and PJM develop a joint and common market in 2004 that would provide for a seamless market in the Midwest.

4. By order issued April 1, 2003,<sup>4</sup> in Docket No. ER03-262-000, *et al.*, the Commission conditionally accepted for filing, suspended and set for hearing revisions to the PJM Open Access Transmission Tariff (OATT) that would allow AEP, ComEd, DP&L, and Virginia Electric and Power Company to join PJM. Subsequently, however, the Kentucky Public Service Commission denied transfer of AEP's transmission facilities to PJM.<sup>5</sup> AEP has also asserted that recently-enacted Virginia law prohibits any firm that is a public utility in Virginia from transferring ownership or control of, or operational responsibility over, any transmission system to "any person" before July 1, 2004 and thereafter prohibits such a transfer without prior approval of the Virginia State Corporation Commission.<sup>6</sup> At the same time, state legislation in Ohio and Michigan requires that AEP join an RTO. Also, by order issued March 15, 2000,<sup>7</sup> in Docket No. EC98-40-000, *et al.*, the Commission conditionally approved the merger between AEP and Central and South West Corporation (CSW), provided that AEP fulfill its commitment, set forth in that proceeding, to join an RTO.<sup>8</sup> The uncertainty concerning AEP joining PJM has also resulted in uncertainty in the timing for ComEd and DP&L joining PJM. Requests for rehearing and compliance filings are pending in these proceedings.

5. Illinois Power had originally proposed to join PJM. However, it subsequently has indicated that it may instead seek to join Midwest ISO. Illinois Power currently does not have an application on file with the Commission to join either RTO.

<sup>4</sup> American Electric Power Service Corporation, *et al.*, 103 FERC ¶ 61,008 (2003).

<sup>5</sup> See Answer of Edison Mission Energy, *et al.*, to Exelon Corporation's Comments on AEP Responses to FERC Data Requests, filed August 1, 2003.

<sup>6</sup> See AEP's Report on Compliance with Transmission-Related Merger Conditions, filed February 28, 2003 (AEP's February 28 Compliance Report).

<sup>7</sup> American Electric Power Company, and Central and South West Corporation, 90 FERC ¶ 61,242 (2000).

<sup>8</sup> See Stipulation of American Electric Power Co., Central and South West Corp. and Commission Trial Staff at 2-4, Docket Nos. EC98-40-000 *et al.*, (May 24, 1999).

6. Finally, Ameren had proposed to join Midwest ISO as part of GridAmerica LLC (GridAmerica). The Commission has recently received an application for GridAmerica to join Midwest ISO on October 1, 2003.<sup>9</sup> However, at that time, GridAmerica would not include the facilities of Ameren.

### Discussion

7. The Commission will hold an inquiry into RTO issues related to the Midwest ISO and PJM to be conducted by the Commissioners, participated in by advisory staff, and facilitated by a presiding administrative law judge. As noted above, the purpose of this inquiry is to gather sufficient information to move forward in resolving the commitment made by several entities to establish a joint and common market in the Midwest and PJM region.<sup>10</sup>

8. With regard to these utilities, this inquiry will explore the impediments to these utilities in joining Midwest ISO or PJM and proposals for resolving those impediments. We note that the uncertainty regarding the Midwest-PJM participants is delaying the benefits to customers of greater voluntary coordination among utilities, and thus hindering the timely development of a joint and common market in the Midwest and PJM region, and the benefits of reliability that will result from such a market. Order No. 2000 adopted initially a voluntary approach to RTO formation which allows capturing reliability benefits, including regional infrastructure planning.

9. We direct Midwest ISO, PJM, North American Electric Reliability Council, AEP, Ameren, ComEd, DP&L and Illinois Power to have a senior company official who can represent these entities as well as make decisions on behalf of the company present at the inquiry. We invite representatives from the affected states, including state commissions, to this inquiry. We invite Canadian parties who will be impacted by the common market to this inquiry, as well.

10. We direct AEP, Ameren, ComEd, DP&L and Illinois Power to submit the following information in the form of pre-filed testimony by one or more witnesses by September 23, 2003: specify the impediments to their voluntary commitments to join RTOs;

<sup>9</sup> See Filing by GridAmerica Participants and Midwest ISO dated August 28, 2003, in Ameren Services Company *et al.*, Docket No. ER02-2233-010, *et al.*

<sup>10</sup> At this time, we intend to focus on the Midwest and the gaps in the Midwest. Thus, because Virginia Electric and Power Company is not in the Midwest, we are not including them as part of this inquiry at this time.

and propose solutions to these impediments, including Commission actions necessary to move the process forward to establish a joint and common market in the Midwest and PJM region in an expeditious manner. This pre-filed testimony will be subject to cross-examination by the Commissioners and advisory staff at the hearing specified below. Any other interested parties may file similar testimony.

11. The inquiry will be held on September 29 and 30, 2003, from approximately 9 a.m. to 5 p.m. in Hearing Room 1 of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The Commissioners will attend and participate in the discussions. We direct the Chief Administrative Law Judge to appoint an administrative law judge to preside over the two-day inquiry, including swearing in witnesses, ruling on the admissibility of evidence and objections, etc. The presiding administrative law judge's involvement will be limited to the two days of hearing, and the Commission will take appropriate future action, as early as the October 22, 2003 meeting.

*The Commission orders:*

(A) The Secretary is hereby directed to publish this order in the **Federal Register**.

(B) AEP, Ameren, ComEd, DP&L and Illinois Power are hereby directed to file the information discussed above by September 23, 2003.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), the administrative law judge designated by the Chief Administrative Law Judge, shall preside over this inquiry, as discussed in the body of this order.

(D) This inquiry shall be held on September 29 and 30, 2003, in Hearing Room 1 of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

By the Commission.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03-24086 Filed 9-18-03; 8:45 am]

**BILLING CODE 6717-01-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

[ER-FRL-6644-1]

### **Environmental Impact Statements and Regulations; Availability of EPA Comments**

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 04, 2003 (68 FR 16511).

#### **Draft EISs**

*ERP No. D-AFS-J65389-MT Rating EC2, North Belts Travel Plan and the Dry Range Project, Provision of Motorized and Non-motorized Recreation, Helena National Forest, Broadwater, Lewis and Clark and Meagher Counties, MT.*

*Summary:* EPA has environmental concerns regarding potential water quality effects and inconsistency of road management with TMDL development for impaired surface waters and potential adverse effects to wildlife habitat, security and connectivity with Alternatives 1, 2 and 3. EPA believes Alternatives 4 and 5 or a new modified alternative with reduced environmental effects should be considered as the preferred alternative. EPA supports inclusion of road, trail and watershed improvements in the preferred alternative, and believes additional information is needed to fully assess and mitigate all potential impacts of the management actions.

*ERP No. D-BLM-K70009-CA Rating EC2, West Mojave Plan, Habitat Conservation Plan and Federal Land Use Plan Amendment, Implementation, California Desert Conservation Area, Portions of San Bernardino, Kern, Inyo, and Los Angeles Counties, CA.*

*Summary:* EPA expressed environmental concerns and recommended additional mitigation measures to further protect desert tortoise and riparian/wetland and stream functions.

*ERP No. D-COE-C39016-NJ Rating EC2, Union Beach Community Project, Provision of Hurricane and Storm Damage Reduction to Residential, Commercial and Recreational Resources, Located along the Raritan Bay and Sandy Hook Bay Shoreline, Monmouth County, NJ.*

*Summary:* EPA had environmental concerns and requested that the final EIS include additional information on the wetlands mitigation plan and a Clean Air Act General Conformity Applicability Analysis.

*ERP No. D-FHW-C40159-NJ Rating EC2, Penns Neck Area Transportation Service Improvements, Phase I Archeological Survey, U.S. 1, Sections 2S and 3J, Funding, West Windsor and Princeton Townships, Mercer County, and Plainsboro Township, Middlesex County, NJ.*

*Summary:* EPA has environmental concerns with the proposed project's impacts regarding stormwater runoff, surface waters and vehicular traffic.

*ERP No. D-FHW-D40093-PA Rating LO, City of Lebanon Bridge Over Norfolk Southern Railroad Tracks Construction Project, 12th Street to Lincoln Avenue, Funding, Lebanon County, PA.*

*Summary:* EPA does not have objections regarding the proposed project.

*ERP No. D-FHW-D40321-PA Rating EC2, Woodhaven Road Project, Traffic Congestion Reduction on Byberry Road between Roosevelt Boulevard and Huntingdon Pike, Funding, Philadelphia, Bucks and Montgomery Counties, PA.*

*Summary:* EPA has environmental concerns regarding avoidance and minimization of the proposed project's impacts to surface waters and wetlands, forested habitats and environmental justice areas.

*ERP No. D-FRC-L05200-OR Rating LO, Bull Run Hydroelectric Project (FERC No.477-024), Proposal to Decommission the Bull Run Project and Remove Project Facilities including Marmot Dam, Little Sandy Diversion Dam and Roslyn Lake, and an Application to Surrender License, Sandy, Little Sandy, Bull Run Rivers, Town of Sandy, Clackamas County, OR.*

*Summary:* EPA supports the selection and implementation of the Settlement Agreement alternative including FERC staff recommended modifications as it will result in long term environmental benefits.

*ERP No. D-NRC-E06022-SC Rating EC1, Generic—License Renewal of Nuclear Plants, Virgil C. Summer Nuclear Station, Supplement 15, Fairfield County, SC.*

*Summary:* EPA notes that while the impacts of the project appear to be within acceptable limits, the plant will need to continue radiological monitoring of all effluents and the appropriate storage and disposition of radioactive waste during the license renewal period.

*ERP No. DA-AFS-G65062-NM Rating LO, Agua/Caballos Timber Sale, Timber Harvest and Existing Vegetation Management, Implementation, Carson National Forest, El Rito Ranger District, Taos County, NM.*

*Summary:* EPA expressed a lack of objections to the selection of the preferred alternative.

*ERP No. DS-NRS-E36161-MS Rating LO, Town Creek Watershed Project, Impacts of Floodwater Retarding Structures (FWRS) No. 1, 5, 8, and 59 and Deletion of FWRS No. 10A, Funding, Lee, Pontotoc, Prentiss and Union Counties, MS.*

*Summary:* EPA determined that the unavoidable losses associated with implementation of this flood control proposal are within acceptable limits and will be appropriately mitigated.

#### Final EISs

*ERP No. F-AFS-L65369-00 Boise National Forest, Payette National Forest and Sawtooth National Forest, Forest Plan Revision, Implementation, Southwest Idaho Ecogroup, several counties, ID, Malheur County, OR and Box Elder County, UT.*

*Summary:* No formal comment letter was sent to the preparing agency.

*ERP No. F-COE-K30031-CA Imperial Beach Shore Protection Project, Shore Protection and Prevention of Damage to Adjacent Beachfront Structures, Silver Strand Shoreline, City of Imperial Beach, San Diego County, CA.*

*Summary:* No formal comment letter was sent to the preparing agency.

*ERP No. F-FHW-E50292-FL St. Augustine Bridge of Lions (SR AIA) Rehabilitation or Replacement of the Existing Two Lane Bridge Crossing over the Matanzas River, Intracoastal Waterway, U.S. Coast Guard Bridge Permit and NPDES Permit Issuance, St. Augustine, St. John County, FL.*

*Summary:* EPA lacks objections to the preferred alternative. However, EPA recommends a stipulation for river bottom restoration and debris removal.

*ERP No. F-SFW-A64059-00 Programmatic EIS-Double crested Cormorant (DCCO) Management Plan, Reduction of Resource Conflicts, Flexibility Enhancements of Natural Resource Agencies in dealing with DCCO Related Resource Conflicts and to ensure the Conservation of Healthy, Viable DCCO Population, Implementation, The Contiguous United States.*

*Summary:* No formal comment letter was sent to the preparing agency.

Dated: September 16, 2003.

**Joseph C. Montgomery,**  
*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 03-24000 Filed 9-18-03; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

(ER-FRL-6643-9)

#### Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa>.

Weekly receipt of Environmental Impact Statements

Filed September 08, 2003 Through September 12, 2003 Pursuant to 40 CFR 1506.9.

*EIS No. 030416, Final EIS, APH, Importation of Solid Wood Packing Material, To Exclude, Eradicate and/or Control Invasive Alien Agricultural Pest, Implementation, United States, Wait Period Ends: October 20, 2003, Contact: David A. Bergsten (301) 734-6103.*

*EIS No. 030417, Draft EIS, AFS, NM, Surface Management of Gas Leasing and Development in the Carson National Forest, Implementation, Jicarilla Ranger District, Rio Arriba County, NM, Comment Period Ends: November 3, 2003, Contact: Tom Dwyer (505) 758-6272. This document is available on the Internet at: <http://www.fs.fed.us/r3/carson>.*

*EIS No. 030418, Draft EIS, AFS, MI, Baltimore Vegetative Management Project, Implementation, Ottawa National Forest, Ontonagon Ranger District, Ontonagon County, MI, Comment Period Ends: November 3, 2003, Contact: Bruce Prud'homme (906) 884-2085.*

*EIS No. 030419, Draft EIS, AFS, NM, Magdalena Ridge Observatory Project, Construct and Operate an Observatory in the Magdalena Mountains, Cibola National Forest, Magdalena Ranger District, Socorro County, NM, Comment Period Ends: November 3, 2003, Contact: Laura Hudnell (505) 854-2281.*

*EIS No. 030420, Draft EIS, HHS, MD, Integrated Research Facility (IRF) at Fort Detrick Construction and Operation, Adjacent to Existing U.S. Army Medical Research Institute of Infectious Diseases Facilities, City of Frederick, Frederick County, MD, Comment Period Ends: November 3, 2003, Contact: Ron Wilson (301) 496-5037.*

*EIS No. 030421, Final EIS, DOE, CA, Sacramento Area Voltage Support Project, System Reliability and Voltage Support Improvements, Sierra Nevada Region, Alameda, Contra Costa, Placer, Sacramento, San Joaquin and Sutter Counties, CA, Wait Period Ends: October 20, 2003, Contact: Loreen McMahon (916) 353-4460. This document is available on the Internet at: <http://www.wapa.gov>.*

*EIS No. 030422, Draft EIS, BPA, WA, BP Cherry Point Cogeneration Project, To Build a 720-megawatt Gas-Fired Combined Cycle Cogeneration Facility, Energy Facility Site Evaluation Council (EFSEC), Whatcom County, WA, Comment Period Ends: November 3, 2003, Contact: Thomas C. McKinney (503) 230-4749.*

*EIS No. 030423, Draft EIS, NOA, WA, CA, OR, Pacific Coast Groundfish Fishery Management Plan (FMP) Amendment 16-2, Rebuilding Plans for: Darkblotched Rockfish, Pacific Ocean Perch, Canary Rockfish, and Lingcod, Maximum Sustainable Yield (MSY) Magnuson-Stevens Fishery Conservation and Management Act, WA, OR, CA and Boundary of U.S. EEZ, Comment Period Ends: November 3, 2003, Contact: D. Robert Lohn (206) 526-6150.*

*EIS No. 030424, Final EIS, BIA, CA, Jamul Indian Village (Tribe) 101 Acre Fee-to-Trust Transfer and Casino Project, Implementation, San Diego County, CA, Wait Period Ends: November 3, 2003, Contact: William Allan (916) 978-6043.*

*EIS No. 030425, Final EIS, EPA, AK, Pogo Gold Mine Project, Underground Mine Construction and Operation, NPDES and U.S. Army COE Section 404 Permits Issuance, Goodpaster River Valley, Delta Junction, AK, Wait Period Ends: October 20, 2003, Contact: Hanh Gold (206) 553-0171.*

#### Amended Notices

*EIS No. 030367, Draft EIS, IBR, CA, Freeport Regional Water Project, To Construct and Operate a Water Supply Project to Meet Regional Water Supply Needs, Sacramento County Water Agency (SCWA) and the East Bay Municipal Utility District (EBMUD), Alameda, Contra Costa, San Joaquin, Sacramento Counties, CA, Comment Period Ends: October 7, 2003, Contact: Rod Schroeder (916) 989-7274. Revision of FR Notice Published on 8/15/2003: CEQ Comment Period Ending 9/29/2003 has been Extended to 10/7/2003.*

*EIS No. 030394, Draft Supplement, NOA, MA, ME, RI, NH, CT, Northeast Multispecies Fishery Management*



Plan, Amendment 13, New Information concerning Management Alternatives and Impact Analysis, Adoption, Approval and Implementation, New England Management Council, ME, HH, VT, MA, RI, CT, NY, NJ, DE, MD, VA and NC, *Comment Period Ends*: October 15, 2003, *Contact*: Paul Howard (978) 465-0492. Revision of FR Notice Published on 8/29/2003: Title Correction.

*EIS No. 030411*, Final EIS, FHW, WY, Wyoming Forest Highway 4 U.S. 212 (KP 39.5 to KP 69.4) the Beartooth Highway, A Portion Proposed for Reconstruction begins 7.1 miles east of the Junction of WY-296 (Chief Joseph Highway) and Proceeds East for 18.6 miles to the Wyoming/Montana State Line, Park County, WY, *Wait Period Ends*: October 14, 2003, *Contact*: Jennifer Corwin (303) 716-2097. Revision of FR Notice Published on 9/12/2003: Correction to Telephone Number.

Dated: September 16, 2003.

**Joseph C. Montgomery,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2003-0314; FRL-7326-6]

### Carbofuran; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received a specific exemption request flowable carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No. 279-2876) to treat up to 300,000 acres of cotton in California to control cotton aphid. The applicant proposes the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and is intended for a use that could pose a risk similar to the risk posed by uses evaluated under the Special Review. The granular formulation of carbofuran was the subject of a Special Review between the years of 1986-1991, which resulted in a negotiated settlement whereby most of the registered uses of granular carbofuran were phased out. While the flowable formulation of carbofuran is not the subject of a Special Review, EPA believes that the proposed use of

flowable carbofuran on cotton could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. EPA is soliciting public comment before making the decision whether or not to grant the exemption. On September 4, 2003, the California Department of Pesticide Regulation declared a crisis exemption for this use to treat up to 200,000 acres of cotton in California.

**DATES:** Comments, identified by docket ID number OPP-2003-0314, must be received on or before October 6, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Stephen A. Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9362; fax number: (703) 308-6920; e-mail address: [schaible.stephen@epa.gov](mailto:schaible.stephen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federal or State Government Agency involved in administration of environmental quality programs. Other types of entities not listed in this unit could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0314. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket

facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

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

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the



copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

#### *C. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and

follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP-2003-0314. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID Number OPP-2003-0314. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2003-0314.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA., Attention: Docket ID Number OPP-2003-0314. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

#### *D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be

disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

#### *E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## **II. Background**

### *A. What Action is the Agency Taking?*

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The California Department of Pesticide Regulation has requested the Administrator to issue a specific exemption for the use of carbofuran on cotton to control cotton aphids. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicant asserts that Furadan has been an important and necessary tool for control of late season aphid problems the past several seasons. Cotton growers in California are specifically concerned with the prevention of sticky cotton, which can result from sugar secretions from specific insect pests and diminishes the quality of the cotton. The applicant claims that recently registered chloronicotinyl insecticides, which rely on foliar uptake and translaminar movement, are less effective in the late season after foliage has hardened off. The applicant further claims that resistance to these chloronicotinyl insecticides could develop and that without a specific exemption from registration under FIFRA for the use of flowable carbofuran on cotton to control cotton aphids, cotton growers in these states will suffer significant economic losses.

The applicant proposes to make no more than two applications of flowable carbofuran on cotton at the rate of 0.25 lb. active ingredient (8 fluid ounces) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 2003 growing season, from August 20, 2003 to October 30, 2003, would be 0.5 lb. active ingredient (16 fluid ounces) per acre. The applicant proposes that a maximum of 300,000 acres could be treated under the requested exemptions. If all of these acres were treated at the maximum proposed rate and for the maximum allowed number of times, 150,000 lbs. active ingredient would be used in California. Under the crisis exemption, a single aerial application of flowable carbofuran at a rate of 0.25 lb. active ingredient (8 fluid ounces) per acre may be made to cotton. A maximum of 200,000 acres of cotton in California may be treated.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing use of a chemical (*i.e.*, an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs and is intended for a use that could pose a risk similar to the risk posed by uses evaluated under the Special Review. The granular formulation of carbofuran was the subject of a Special Review between the years of 1986-1991, which resulted in a negotiated settlement whereby most of the registered uses of granular carbofuran were phased out. While the

flowable formulation of carbofuran is not the subject of a Special Review, EPA believes that the proposed use of flowable carbofuran on cotton could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the California Department of Pesticide Regulation.

#### List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 4, 2003.

**Debra Edwards,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 03-24117 Filed 9-17-03; 1:38 pm]

**BILLING CODE 6560-50-S**

#### EXPORT-IMPORT BANK OF THE UNITED STATES

##### Sunshine Act Meeting

**ACTION:** Notice of a partially open meeting of the board of Directors of the Export-Import Bank of the United States.

**TIME AND PLACE:** Thursday, September 25, 2003 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

**OPEN AGENDA ITEM:** PEFCO Secured Note Issues (Resolution).

**PUBLIC PARTICIPATION:** The meeting will be open to public participation for Item No. 1 only. Attendees that are not employees of the Executive Branch will be required to sign in prior in the meeting.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Telephone No. 202-565-3957).

**James K. Hess,**

*Senior Vice President and Chief Financial Officer.*

[FR Doc. 03-24175 Filed 9-17-03; 3:55 pm]

**BILLING CODE 6690-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2630]

##### Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

September 15, 2003.

Petitions for Reconsideration and Clarification have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying 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 October 6, 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 2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 (MB Docket No. 02-277).

Cross-Ownership of Broadcast Stations and Newspapers (MM Docket No. 01-235).

Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets (MM Docket No. 01-317).

Definition of Radio Markets (MM Docket No. 00-244).

Definition of Radio Markets for Areas Not Located in an Arbitron Survey Area (MB Docket No. 03-130).

*Number of Petitions Filed:* 27.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03-23907 Filed 9-18-03; 8:45 am]

**BILLING CODE 6712-01-M**

#### FEDERAL ELECTION COMMISSION

##### Sunshine Act Notices

**AGENCY:** Federal Election Commission:

**DATE AND TIME:** Thursday, September 25, 2003 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth floor).

**STATUS:** This meeting will be open to the public.

**ITEMS TO BE DISCUSSED:** Correction and approval of minutes.

Draft Advisory Opinion 2003-21: Lehman Brothers Inc. by counsel, Kenneth A. Gross and Ki P. Hong.

Routine Administrative Matters.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron Harris, Press Officer, Telephone: (202) 694-1220.

**Mary W. Dove,**

*Secretary of the Commission.*

[FR Doc. 03-24163 Filed 9-17-03; 3:04 pm]

**BILLING CODE 6715-01-P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 14, 2003.

**A. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *Home Bancshares, Inc.*, Conway, Arkansas, and its subsidiary TCBancorp, Inc., North Little Rock, Arkansas; to acquire at least 80 percent and 20 percent of the voting shares, respectively, of CB Bancorp, Inc., Conway, Arkansas, and thereby

indirectly acquire Community Financial Group, Inc., Cabot, Arkansas and its subsidiary, Community Bank, Cabot, Arkansas.

In connection with this application, CB Bancorp, Inc., Conway, Arkansas also has applied to become a bank holding company by acquiring 100 percent of the voting shares of Community Financial Group, Inc., Cabot, Arkansas, and its subsidiary, Community Bank, Cabot, Arkansas.

Board of Governors of the Federal Reserve System, September 15, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03-23894 Filed 9-18-03; 8:45 am]

**BILLING CODE 6210-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Meeting of the President's Council on Bioethics on October 16-17, 2003

**AGENCY:** The President's Council on Bioethics, HHS.

**ACTION:** Notice.

**SUMMARY:** The President's Council on Bioethics (Leon R. Kass, M.D., chairman) will hold its fourteenth meeting, at which, among other things, it will continue discussion of its stem cell research, "beyond therapy" (enhancement), and "biotechnology and public policy" (regulation) projects. Subjects discussed at past Council meetings (and potentially touched on at this meeting) include: human cloning; embryo research; aging retardation and lifespan-extension; organ procurement for transplantation; and assisted reproduction and reproductive genetics (including IVF, ICSI, PGD; sex selection, inheritable genetic modification; and the patentability of human genes, tissues, and organisms).

**DATES:** The meeting will take place Thursday, October 16, 2003, from 9 a.m. to 5:15 p.m. ET; and Friday, October 17, 2003, from 8:30 a.m. to 12:30 p.m. ET.

**ADDRESSES:** Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC 20004.

*Public Comments:* The meeting agenda will be posted at <http://www.bioethics.gov>. Interested members of the public are encouraged to offer comments, either in person or in writing. A period of time will be set aside during the meeting to receive comments from the public, beginning at 11:30 a.m., on Friday, October 17. Comments will be limited to no more

than five minutes per speaker or organization. As a courtesy, please inform Ms. Diane Gianelli, Director of Communications, in advance of your intention to make a public statement, and please give her your name, affiliation, and a brief description of the topic or nature of your comments. To submit a written statement, mail or e-mail it to Ms. Gianelli at one of the addresses given below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane Gianelli, Director of Communications, The President's Council on Bioethics, Suite 700, 1801 Pennsylvania Avenue, Washington, DC 20006. Telephone: 202/296-4669. E-mail: [info@bioethics.gov](mailto:info@bioethics.gov). Web site: <http://www.bioethics.gov>.

Dated: September 10, 2003.

**Dean Clancy,**

*Executive Director, The President's Council on Bioethics.*

[FR Doc. 03-23908 Filed 9-18-03; 8:45 am]

**BILLING CODE 4161-90-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

[Document Identifier: CMS-10028A,B,C]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Collection Request:* Extension of a currently

approved collection; *Title of Information Collection*: State Health Insurance Assistance Program (SHIP) Client Contact Form, Public and Media Activity Form, and Resource Report; *Form No.*: CMS-10028A, B, C (OMB# 0938-0850); *Use*: The State Health Insurance Assistance Program (SHIP) Client Contract form will be completed by SHIP counselors at each counseling event in order to collection SHIP performance data. This data will then be accumulated and analyzed to measure SHIP performance; *Frequency*: Semi-annually and annually; *Affected Public*: State, Local, or Tribal Government, not-for-profit institutions, and Federal Government; *Number of Respondents*: 53; *Total Annual Responses*: 265; *Total Annual Hours*: 159.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at <http://cms.hhs.gov/regulations/pract/default.asp>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@hcfa.gov](mailto:Paperwork@hcfa.gov), or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Melissa Musotto, Room C5-14-03, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: September 12, 2003.

**Julie Brown,**

*CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.*

[FR Doc. 03-23913 Filed 9-18-03; 8:45 am]

BILLING CODE 4120-03-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare and Medicaid Services**

[Document Identifier: CMS-10079]

**Agency Information Collection Activities: Submission for OMB Review; Comment Request**

**AGENCY:** Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the

Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Collection Request*: New collection; *Title of Information Collection*: Hospital Wage Index Occupational Mix Survey and Supporting Regulations in 42 CFR 412.230, 412.304 and 413.65; *Form No.*: CMS-10079 (OMB# 0938-NEW); *Use*: In the May 4, 2001 Proposed Rule (66 FR 22674), CMS proposed to conduct a special survey to collect data from a sample of occupational categories that provide a valid measure of wage rates within a geographical area. In the August 1, 2001 Final Rule (66 FR 39860), we responded to comments from the Proposed Rule and stated that, CMS will conduct a special survey of all short-term acute-care hospitals that are required to report wage data to collect these data. Section 304 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 requires CMS to collect wage data on hospital employees by occupational category. The collection is to be completed by September 30, 2003 and to be used to adjust the wage index by October 1, 2004.; *Frequency*: Other: once every three years; *Affected Public*: Business or other for-profit, and not-for-profit institutions; *Number of Respondents*: 4,500; *Total Annual Responses*: 4,500; *Total Annual Hours*: 720,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at <http://cms.hhs.gov/regulations/pract/default.asp>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@hcfa.gov](mailto:Paperwork@hcfa.gov), or call the Reports Clearance Office on (410) 786-1326.

Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 12, 2003.

**Julie Brown,**

*CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.*

[FR Doc. 03-23914 Filed 9-18-03; 8:45 am]

BILLING CODE 4120-03-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. 2003N-0424]

**Agency Information Collection Activities; Proposed Collection; Comment Request; Substantial Evidence of Effectiveness of New Animal Drugs**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension for an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements for meeting the substantial evidence standards necessary for demonstrating the safety and effectiveness of a new animal drug.

**DATES:** Submit written or electronic comments on the collection of information by November 18, 2003.

**ADDRESSES:** Submit electronic comments on the collection of information to: <http://www.fda.gov/dockets/ecomments>. Submit written comments on the collection of information to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Office of Management Programs (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1472.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506 (c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2) (A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether

the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Substantial Evidence of Effectiveness of New Animal Drugs—21 CFR Part 514 (OMB Control Number 0910-0356)—Extension**

*Description:* Congress enacted the Animal Drug Availability Act of 1996 (ADAA) (Public Law 104-250) on October 9, 1996. As directed by the ADAA, FDA published a regulation, § 514.4(a) (21 CFR 514.4(a)), to further define substantial evidence in a manner that encourages the submission of NADA's and supplemental NADA's and encourages dose range labeling. Under

the ADAA, substantial evidence is the standard that a sponsor must meet to demonstrate the effectiveness of a new animal drug for its intended use under the conditions suggested in its proposed labeling. Section 514.4(a) gives FDA greater flexibility to make case-specific scientific determinations regarding the number and types of adequate and well-controlled studies that will provide, in an efficient manner, substantial evidence that a new animal drug is effective. FDA believes this regulation will address the following issues: (1) Reduce the number of adequate and well-controlled studies necessary to demonstrate the effectiveness of certain combination new animal drugs; (2) eliminate the need for an adequate and well-controlled dose titration study; and may, in limited instances, (3) reduce or eliminate the number of adequate and well-controlled field investigations necessary to demonstrate by substantial evidence the effectiveness of a new animal drug. Table 1 of this document represents the estimated burden of meeting the substantial evidence standard.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
514.4(a)	190	4.5	860	632.6	544,036

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 15, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-23940 Filed 9-18-03; 8:45 am]

BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. 1998D-1146]

**Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Evaluating the Safety of Antimicrobial New Animal Drugs With Regard to Their Microbiological Effects on Bacteria of Human Health Concerns**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Fax written comments on the collection of information by October 20, 2003.

**ADDRESSES:** OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202-395-6974, or e-mail comments to [Fumie\\_Yokota@omb.eop.gov](mailto:Fumie_Yokota@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Office of Management

Programs (HFA-250), Food and Drug Administration, 5600 Fishers Lane, rm. 4B-41, Rockville, MD 20857, 301-827-1472.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Evaluating the Safety of Antimicrobial New Animal Drugs With Regard to Their Microbiological Effects on Bacteria of Human Health Concerns**

This guidance document discusses a recommended approach for assessing the antimicrobial resistance concerns as part of the overall preapproval safety evaluation of new animal drugs, focusing on the microbiological effects on bacteria of human health concern. In particular, the guidance describes a methodology sponsors of antimicrobial new animal drug applications for food-producing animals may use to complete a qualitative antimicrobial resistance risk assessment. This risk assessment

should be submitted to FDA for the purposes of evaluating the safety of the new animal drug to human health. The guidance document outlines a process for integrating relevant information into an overall estimate of risk and discusses possible risk management strategies.

Table 1 of this document represents the estimated burden of meeting the new reporting requests. The burden estimates for these information collection requests are based on

information provided by the Office of New Animal Drug Evaluation, Center for Veterinary Medicine. The guidance document describes the type of information that should be collected by the drug sponsor when completing the antimicrobial resistance risk assessment. FDA will use the risk assessment and supporting information to evaluate the safety of original (21 CFR 514.1) or supplemental (21 CFR 514.8) new animal drug applications (NADAs) for

antimicrobial drugs intended for use in food-producing animals.

In the **Federal Register** of September 13, 2002 (67 FR 58058), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received in response to that notice.

FDA estimates the burden for this collection of information:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

21 CFR Section 514.1(b)(8) and 514.8(a)(2)	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Hazard Identification (initial scoping of issues--relevant bacteria, resistance determinants, food products; preliminary data gathering)	5	1	5	30	150
Release Assessment (literature review; review of research reports; data development; compilation, and presentation)	5	1	5	1,000	5,000
Exposure Assessment (identifying and extracting consumption data; estimating probability of contamination on food product)	5	1	5	8	40
Consequence Assessment (review ranking of human drug importance table)	5	1	5	4	20
Risk Estimation (integration of risk components; development of potential arguments as basis for overall risk estimate)	5	1	5	12	60
Risk Management (discussion of appropriate risk management activities)	5	1	5	30	150
Total Burden					5,420

<sup>1</sup>There are no capital costs or operating and maintenance costs associated with this collection of information.

<sup>2</sup>FDA estimates that on an annual basis an average of five NADAs (including original applications and major supplements) would be subject to information collection under this guidance. This estimate is based on a review of the number of major NADA approvals that occurred between October 1997 and October 2001. During that 4-year period, an average of five antimicrobial NADAs (including original and major supplements) was approved in food-producing animals per year. This estimate excludes NADAs for antimicrobial drug combinations, generic drug applications (abbreviated new animal drug applications), and certain supplemental NADAs.

Dated: September 15, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-23941 Filed 9-18-03; 8:45 am]

BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. 2002D-0124]

**Guidance for Industry: Notifying FDA of Fatalities Related to Blood Collection or Transfusion; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a document entitled

“Guidance for Industry: Notifying FDA of Fatalities Related to Blood Collection or Transfusion” dated September 2003. The guidance document provides recommendations to blood collection and transfusion facilities on reporting fatalities related to human blood and blood component collection or transfusion to FDA’s Center for Biologics Evaluation and Research (CBER). The guidance announced in this notice finalizes the draft guidance of the same title dated June 2002.

**DATES:** Submit written or electronic comments on agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of the 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 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 guidance document.

Submit written comments on the 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:** Valerie A. Butler, 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 document entitled "Guidance for Industry: Notifying FDA of Fatalities Related to Blood Collection or Transfusion" dated September 2003. The guidance provides recommendations to blood collection or transfusion facilities on reporting to CBER fatalities related to human blood and blood component collection and transfusion. The guidance announced in this notice finalizes the draft guidance of the same title dated June 2002 (67 FR 38505, June 4, 2002).

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on this topic. 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. Paperwork Reduction Act of 1995**

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collection(s) of information in 21 CFR 606.170(b) cited in the guidance has been approved by OMB under OMB control number 0910-0116.

**III. Comments**

Interested persons may, at any time, submit written or electronic comments to the Division of Dockets Management (see **ADDRESSES**) regarding this 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 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.

**IV. Electronic Access**

Persons with access to the Internet may obtain the guidance at either <http://www.fda.gov/cber/guidelines.htm> or <http://www.fda.gov/ohrms/dockets/default.htm>.

Dated: September 12, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-23997 Filed 9-18-03; 8:45 am]

**BILLING CODE 4160-01-S**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Office of the Director, National Institutes of Health; Notice of Meeting**

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Office of AIDS Research Advisory Council.

*Date:* October 14-15, 2003.

*Time:* 9 a.m. to 12 p.m.

*Agenda:* A Report of the Director addressing OAR initiatives. The topic of the meeting will be "Issues in Domestic and International Clinical Trails of Therapeutic and Prevention Interventions."

*Place:* National Institutes of Health, Bldg. 31, 9000 Rockville Pike, Room 6C10, Bethesda, MD 20892.

*Contact Person:* Jack Whitescarver, Director, Office of AIDS Research, OD, National Institutes of Health, 9000 Rockville Pike, Building 2, Room 4E14, Bethesda, MD 20892, (301) 496-0357.

Information is also available on the Institute's/Center's home page: [www.nih.gov/od/oar/index.htm](http://www.nih.gov/od/oar/index.htm), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: September 11, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03-23903 Filed 9-18-03; 8:45 am]

**BILLING CODE 4140-01-M**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Issues and Challenges in the Design and Conduct of Clinical Trials of Drugs in Pre-Term Infants and Neonates**

The National Institute of Child Health and Human Development (NICHD) of the National Institutes of Health (NIH), Department of Health and Human Services, will sponsor a working meeting to explore approaches for the design and conduct of clinical trials to foster safe and effective drug therapies in pre-term infants and neonates on March 29-March 30, 2004, at the Baltimore and Washington International Airport Marriott Hotel.

The NICHD is sponsoring the meeting in collaboration with the Food and Drug Administration, the Fogarty International Center, and other NIH institutes and centers, including the National Cancer Institute; National Heart, Lung, and Blood Institute; National Institute of Dental and Craniofacial Research; National Institute of Diabetes and Digestive and Kidney Diseases; National Institute of Neurological Disorders and Stroke; National Institute of Allergy and Infectious Diseases; National Institute of General Medical Sciences; National Eye Institute; National Institute of Environmental Health Sciences; National Institute of Arthritis and Musculoskeletal and Skin Diseases; National Institute of Mental Health; National Institute on Drug Abuse; National Institute on Alcohol Abuse and Alcoholism; National Institute of Nursing Research; National Human



Genome Research Institute; National Center for Research Resources; and National Center for Complementary and Alternative Medicine.

The purpose of the working meeting is to discuss the current status of drug research in neonates and pre-term infants. The meeting will focus on exploring gaps in existing knowledge in this field and in developing strategies to rectify the gaps that could be implemented by federal agencies and the scientific community.

Participants at the meeting will develop recommendations for potential research approaches for current and future pharmaceutical agents for use in newborns. The focus will be on issues related to: Trial design, ethics, pharmacokinetics, pharmacodynamics, efficacy and toxicity, drug formulations, drug prioritization, and surveillance of adverse events. Additional discussion will consider the assessment of long term outcomes and issues related to research in small subpopulations.

Attendance at the meeting will be limited. Persons interested in attending the meeting should submit a request containing the following information to <bestpharmaceuticals@mail.nih.gov>.

Name  
Address  
Telephone  
Fax  
E-mail

Persons interested in obtaining more information about the meeting may contact Dr. Donald Mattison, NICHD, 6100 Executive Boulevard, Room 4B-100, Rockville, MD 20892, e-mail <bestpharmaceuticals@mail.nih.gov>, telephone 301-496-5097 (not a toll-free number).

Dated: September 12, 2003.

**Raynard Kington,**

*Deputy Director, National Institutes of Health.*

[FR Doc. 03-23904 Filed 9-18-03; 8:45 am]

BILLING CODE 4140-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Fogarty International Center; Amended Notice of Meeting**

Notice is hereby given of a change in the meeting of the Fogarty International Center Advisory Board, September 16, 2003, 8:30 a.m. to September 16, 2003, 5 p.m., National Institutes of Health, Lawton Chiles International House, Bethesda, MD, 20892 which was published in the **Federal Register** on September 9, 2003, 68 FR 174.

The meeting will be held at the Natcher Bldg. Room E1-E2 45 Center Dr., Bethesda, MD 20892. The meeting is partially Closed to the public.

Dated: September 11, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03-23899 Filed 9-18-03; 8:45 am]

BILLING CODE 4140-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Child Health and Human Development; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel, Urine Sediment DNA: Reproductive Status and Health Index.

*Date:* October 14, 2003.

*Time:* 3:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852, (telephone conference Call).

*Contact Person:* Jon R. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435-6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 11, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03-23895 Filed 9-18-03; 8:45 am]

BILLING CODE 4140-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Child Health and Human Development; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel, Analysis of Cell Cycle Checkpoints in Human Oocytes.

*Date:* October 16, 2003.

*Time:* 10 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference call).

*Contact Person:* Jon M. Ranhand, Ph.D., Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435-6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 11, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03-23896 Filed 9-18-03; 8:45 am]

BILLING CODE 4140-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Child Health and Human Development; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice



is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group, Pediatrics Subcommittee.

*Date:* October 15–16, 2003.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Rita Anand, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 496-1487, [anandr@mail.nih.gov](mailto:anandr@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 11, 2003

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03-23897 Filed 9-18-03; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

*Date:* October 21–22, 2003.

*Open:* October 21, 2003, 7 p.m. to 7:30 p.m.

*Agenda:* To review procedures and discuss policies.

*Place:* Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* October 21, 2003, 7:30 p.m. to 10 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Closed:* October 22, 2003, 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* John F. Connaughton, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594-7797, [connaughtonj@extra.niddk.nih.gov](mailto:connaughtonj@extra.niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Digestive Diseases and Nutrition C Subcommittee.

*Date:* October 29–30, 2003.

*Open:* October 29, 2003, 1 p.m. to 1:30 p.m.

*Agenda:* To review procedures and discuss policies.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Closed:* October 29, 2003, 1:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Closed:* October 30, 2003, 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Contact Person:* Carolyn Miles, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594-7791, [milesc@extra.niddk.nih.gov](mailto:milesc@extra.niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Kidney, Urologic and Hematologic Diseases D Subcommittee.

*Date:* November 5–6, 2003.

*Open:* November 5, 2003, 2 p.m. to 2:30 p.m.

*Agenda:* To review procedures and discuss policies.

*Place:* Crystal City Court Yard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

*Closed:* November 5, 2003, 2:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Crystal City Court Yard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

*Closed:* November 6, 2003, 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Crystal City Court Yard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

*Contact Person:* Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 751, 6707 Democracy Boulevard, Bethesda, MD 20892-6600, (301) 594-7798, [muston@extra.niddk.nih.gov](mailto:muston@extra.niddk.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 11, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03-23898 Filed 9-18-03; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group, Obstetrics and Maternal-Fetal Biology Subcommittee.

*Date:* October 20–21, 2003.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Gopal M. Bhatnagar, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 11, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–23900 Filed 9–18–03; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 4–17, Review of K22s.

*Date:* September 24, 2003.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm. 4AN–38K, National Institute of Dental & Craniofacial

Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–594–5006.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 04–14, Review of R01s.

*Date:* October 27, 2003.

*Time:* 10 a.m. to 11:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, 301–451–5096.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 04–16, Review of RFA DE04–001.

*Date:* November 20, 2003.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Yujing Liu, MD, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN38E, Bethesda, MD 20892, (301) 594–3169, [yujing\\_liu@nih.gov](mailto:yujing_liu@nih.gov).

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 04–12, Review of R44s.

*Date:* December 9, 2003.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel, 04–09, Review of R44s.

*Date:* December 11, 2003.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 12, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–23901 Filed 9–18–03; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group, Reproduction, Andrology, and Gynecology Subcommittee.

*Date:* October 21–22, 2003.

*Time:* 7:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, [ranhandj@mail.nih.gov](mailto:ranhandj@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 11, 2003.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 03–23902 Filed 9–18–03; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Pediatric Pharmaceutical Usage—Request for Comment

**AGENCY:** National Institutes of Health, DHHS.

**ACTION:** Notice.

**SUMMARY:** The National Institute of Child Health and Human Development (NICHD) of the National Institutes of Health (NIH) is interested in identifying and obtaining information on prescription drug use in pediatric and young adult populations, neonates to age 18. This notice is a request for information and not a Request for Proposal (RFP) or solicitation.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 4, 2002, President George W. Bush signed into law the Best Pharmaceuticals for Children Act (BPCA), Pub. L. 107-109. The BPCA mandates that the NIH, in consultation with the Food and Drug Administration (FDA) and experts in pediatric research, develop, prioritize, and publish an annual list of certain approved drugs for which pediatric studies are needed. For inclusion on the list, an approved drug must meet the following criteria: (1) There must be an approved application under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)); or (2) there must be a submitted application that could be approved under the criteria of section 505(j) of the Federal Food, Drug, and Cosmetic Act; or (3) there must be no patent protection or market exclusivity protection under the Federal Food, Drug, and Cosmetic Act; or (4) there must be a referral for inclusion on the list under section 505A(d)(4)(c) of the Federal Food, Drug, and Cosmetic Act; and, in the case of drugs referred to in criteria (1), (2), or (3), additional studies must be needed to assess the safety and effectiveness of the use of the drug in the pediatric population.

The BPCA further stipulates that in developing and prioritizing the list, the NIH shall consider for each drug on the list: (1) The availability of information concerning the safe and effective use of the drug in the pediatric population; (2) whether additional information is needed; (3) whether new pediatric studies concerning the drug may produce health benefits in the pediatric population; and (4) whether reformulation of the drug is necessary.

Recently, NIH, in consultation with the FDA and other experts in

pharmaceutical use and pediatric research, developed a preliminary list of certain off-patent drugs that it categorized as a function of indication and use. The drugs were then prioritized based on frequency of use in the pediatric population, severity of the condition being treated, and potential for providing a health benefit in the pediatric population. This initial listing was published in the **Federal Register** on January 21, 2003 (68 FR 2789).

##### Current Data Needs

To further support the development of a list of drugs that need studies in pediatric populations, the NICHD is seeking information on current usage, in terms of frequency, prevalence, duration, indication and (possibly) toxicity, of drugs in pediatric populations. The NICHD will use the available databases and analyses to prioritize drugs to be further tested in these populations.

**ADDRESSES:** Any organization with data on prescriptions written and filled for pediatric populations is requested to contact NICHD with a complete statement of what is available and any associated costs for access to the database and analyses of the data. Specifically, organizations with such data, or expertise analyzing such data, should contact Tamar Lasky, Ph.D., NICHD, Mailstop 7510, 6100 Executive Boulevard, Rockville, MD 20892, 301-594-8670, [bestpharmaceuticals@mail.nih.gov](mailto:bestpharmaceuticals@mail.nih.gov).

**Due Date:** Organizations providing information on prescriptions written and filled for pediatric populations should contact Dr. Tamar Lasky on or before November 18, 2003.

Dated: September 11, 2003.

**Elias A. Zerhouni,**

*Director, National Institutes of Health.*

[FR Doc. 03-23905 Filed 9-18-03; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Immigration and Customs Enforcement

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** 60-Day Notice of Information Collection Under Review; Memorandum of Understanding to Participate in an Employment Eligibility Confirmation Pilot Program (OMB-18).

The Department of Homeland Security (DHS), Bureau of Immigration

and Customs Enforcement, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 18, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Memorandum of Understanding to Participate in an Employment Eligibility Confirmation Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (File No. OMB-18). SAVE Program, Bureau of Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Employers electing to participate in a pilot will execute a Memorandum of Understanding with the Immigration and Naturalization Service and the Social Security Administration (if applicable), that provides the specific terms and conditions governing the pilot and company information for each site that will be performing employment verification queries.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 5,000 responses at 1 hour and 20 minutes (1.33 hours) per response.*

(6) *An estimate of the total public burden (in hours) associated with the collection: 6,650 annual burden hours.*

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Theresa O'Malley, Chief Information Officer, Department of Homeland Security, Regional Office Building 3, 7th and D Streets, SW., Suite 4636-26, Washington, DC 20202.

Dated: September 25, 2003.

**Stephen Tarragon,**

*Acting Department Clearance Officer,  
Department of Homeland Security, Bureau  
of Immigration and Customs Enforcement.*  
[FR Doc. 03-23893 Filed 9-18-03; 8:45 am]  
**BILLING CODE 4410-10-M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4809-N-38]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** September 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 11, 2003.

**John D. Garrity,**

*Director, Office of Special Needs Assistance Programs.*

[FR Doc. 03-23635 Filed 9-18-03; 8:45 am]

**BILLING CODE 4210-29-M**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### Guam War Claims Review Commission; Establishment and Notice of Meeting

The Guam War Claims Review Commission, established by the Secretary of the Interior pursuant to Public Law 107-333, will meet to organize the Commission and begin planning its work on Friday, October 3, 2003, from 10 a.m. to noon, in room 7000A, Department of the Interior, 1849 C Street, NW., Washington, DC 20240. Members of the public may attend the meeting in person.

Any member of the public wishing further information concerning the meeting or a draft meeting agenda should communicate with Mr. Stephen Sander, Designated Federal Official for the Guam War Claims Review Commission, Office of Insular Affairs, Department of the Interior, Washington, DC 20240, phone (202) 208-4754, telecopier (202) 501-7759, or via e-mail at [Stephen\\_Sander@os.doi.gov](mailto:Stephen_Sander@os.doi.gov).

**Stephen D. Sander,**

*Designated Federal Officer, Guam War Claims Review Commission.*

[FR Doc. 03-24067 Filed 9-18-03; 8:45 am]

**BILLING CODE 4310-93-M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of the Approved Recovery Plan for the Karner Blue Butterfly (*Lycaeides melissa samuelis*)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of document availability.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announce the availability of the approved recovery plan for the Karner blue butterfly (*Lycaeides melissa samuelis*), a species that is federally-listed as endangered under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). This species occurs or may occur on public and private land in Indiana, Michigan, Minnesota, New Hampshire, New York, Ohio, and Wisconsin. Actions identified for recovery of the Karner blue butterfly seek to restore and protect an adequate number of populations throughout its range to ensure long-term viability of the species in the wild.

**ADDRESSES:** U.S. Fish and Wildlife Service's approved recovery plans are available from:

1. Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814 (the fee for the plan varies depending on the number of pages of the plan).
2. Field Supervisor, U.S. Fish and Wildlife Service, Green Bay, Wisconsin, Ecological Services Field Office, 2661 Scott Tower Drive, New Franken, Wisconsin 54229.
3. The World Wide Web at: <http://endangered.fws.gov/RECOVERY/RECPLANS/Index.htm>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Catherine Carnes, Green Bay, Ecological Services Field Office (see **ADDRESSES** section No. 2 above); telephone (920) 866-1732. The Fish and Wildlife Reference Service may be reached at (301) 492-6403 or (800) 582-3421. TTY users may contact Ms. Carnes and the Fish and Wildlife Reference Service through the Federal Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

Recovery of endangered or threatened animals or plants is a primary goal of the Service's endangered species program. A species is considered recovered when the species' ecosystem is restored and/or threats to the species are removed so that self-sustaining and self-regulating populations of the species can be supported as persistent

members of native biotic communities. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for reclassification to threatened status or delisting listed species, and estimate time and cost for implementing the measures needed for recovery.

The Endangered Species Act of 1973, as amended, requires that recovery plans be developed for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that during recovery plan development, we provide public notice and an opportunity for public review and comment. Information presented during the comment period has been considered in the preparation of the approved recovery plan, and is summarized in an appendix to the recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal agencies and other entities so they can take these comments into account during the course of implementing recovery actions.

The Karner blue butterfly was listed as endangered on January 21, 1992. The butterfly depends on savanna and barrens habitats that support wild lupine (*Lupinus perennis*), the only plant on which Karner blue butterfly larvae (or caterpillars) are known to feed. Continued loss and alteration to habitat due to commercial, residential, and agricultural development, fragmentation, and habitat degradation through succession have been identified as the primary reasons for this species' endangered status and continue to be the primary threats to its recovery. Today, the butterfly inhabits remnant savanna and barrens habitats, as well as other more disturbed habitat sites including forest stands, military bases, utility and road rights-of-way, and airports. Wisconsin and Michigan support the majority of populations throughout the range.

The objective of this plan is to provide a framework for the recovery of the Karner blue butterfly so that protection by the Act is no longer necessary. As recovery criteria are met, the status of the species will be reviewed and it will be considered for removal from the list of Endangered and Threatened Wildlife and Plants (50 CFR part 17). The Karner blue butterfly will be considered for reclassification to threatened when a minimum of 27 metapopulations [19 viable metapopulations (supporting 3,000 butterflies each), and 8 large viable metapopulations (supporting 6,000 butterflies each)] are established within

at least 13 recovery units across the butterfly's range and are being managed consistent with the recovery objectives outlined in this plan. Delisting will be considered when a minimum of 29 metapopulations (13 viable and 16 large viable metapopulations) have been established within at least 13 recovery units and are being managed consistent with the plan.

**Authority:** The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: May 9, 2003.

**Charles M. Wooley,**

*Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*

[FR Doc. 03-23930 Filed 9-18-03; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR-027-1610-DP; G-03-0234]

#### Notice of Availability of a Draft Resource Management Plan and Draft Environmental Impact Statement for the Andrews Management Unit/Steens Mountain Cooperative Management and Protection Area

**AGENCY:** Bureau of Land Management (BLM).

**ACTION:** Notice of Availability of Draft Resource Management Plan and Environmental Impact Statement (Draft RMP/Draft EIS) for the Andrews Management Unit and the Steens Mountain Cooperative Management and Protection Area (CMPA).

**SUMMARY:** In accordance with Section 202 of the National Environmental Policy Act of 1969, and under authority of the Federal Land Policy and Management Act of 1976, a Draft RMP/Draft EIS has been prepared for the Andrews Management Unit and the CMPA. The planning area, which consists of the Andrews Management Unit (public land in the Andrews Resource Area outside of the CMPA totaling 1,221,314 acres) and public land in the CMPA (totaling 428,156 acres), lies in Harney and Malheur Counties, Oregon. The Draft RMP/Draft EIS provides direction and guidance for the management of public lands and resources within the Planning Area as well as monitoring and evaluation requirements. Once approved, the Andrews Management Unit and CMPA RMPs will supersede all existing management plans for the public land within the Planning Area, including amending a portion of the Three Rivers

Resource Area RMP (1991) for those lands included within the CMPA boundary. The Draft RMP/Draft EIS evaluates five alternative management approaches, including a No Action (current management) Alternative.

**DATES:** Written comments on the Draft RMP/Draft EIS will be accepted for 90 days following publication of the Environmental Protection Agency's Notice of Availability for this Draft RMP/Draft EIS in the **Federal Register**. Future public meetings and any other public involvement activities will be announced at least 15 days in advance through public notices, media news releases, the project Web site at <http://www.or.blm.gov/Burns/>, and/or mailings.

**ADDRESSES:** Written comments should be sent to Rhonda Karges, Bureau of Land Management, Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738; Fax (541) 573-4411 or e-mail ([Rhonda\\_Karges@or.blm.gov](mailto:Rhonda_Karges@or.blm.gov)). Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information such as Internet address, Fax or phone number, from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

Copies of the Draft RMP/Draft EIS have been sent to affected Federal, Tribal, State and local Government agencies, and to interested publics and are available at the Burns District Office. The planning documents and direct supporting record for the analysis for the Draft RMP/Draft EIS will be available for inspection at the Burns District Office during normal business hours (7:45 a.m. to 4:30 p.m. Monday through Friday, except holidays). The Draft RMP/Draft EIS and other associated documents may be viewed and downloaded in PDF format at the project Web site at <http://www.or.blm.gov/Burns/>.

**FOR FURTHER INFORMATION CONTACT:** For further information and/or to have your name added to our mailing list, contact

Rhonda Karges (541) 573-4433 or Gary Foulkes (541) 573-4541 at the Burns District Office.

**SUPPLEMENTARY INFORMATION:** The Steens Mountain Cooperative Management and Protection Act (Steens Act) of 2000 (Pub. L. 106-399) established the 496,136-acre CMPA primarily within the Andrews Resource Area (a small portion is within the Three Rivers Resource Area). The Andrews Resource Area and the CMPA portion of the Three Rivers Resource Area comprise the Planning Area. The remaining portion of the Andrews Resource Area outside of the CMPA is identified as the Andrews Management Unit. Other special designated areas were created by the Steens Act and include the Wildland Juniper Management Area, the Steens Mountain Wilderness (170,084 acres), new Wild and Scenic River designations, a no livestock grazing area (97,229 acres), and the Donner und Blitzen Redband Trout Reserve. In addition, the Steens Act authorized five specific land exchanges, created a citizen's advisory council (Steens Mountain Advisory Council), established a Mineral Withdrawal Area, and created new Wilderness Study Area (WSA) boundaries. Congress recognized that the CMPA provides for exceptional cooperative management opportunities and offers outstanding natural, cultural, scenic, wilderness, and recreational resources. To ensure that these resources are appropriately managed, the Steens Act requires that a management plan be completed within four years of passage of the Steens Act. At the end of the planning/analysis process, the CMPA and Andrews Management Unit RMPs will be finalized in two separate Records of Decision.

The Draft RMP/Draft EIS contains five alternatives. Alternative A is a no action/continuation of current management alternative. Alternative B excludes commodity production and limits other uses to maximize natural processes. Alternative C emphasizes protection and active restoration of natural values. Alternative D balances cultural, economic, ecological, and social health in a manner that encourages cooperative management practices. Alternative D is the preferred alternative. Alternative E emphasizes commodity production and public uses.

Public input during scoping and review of the Summary of the Analysis of Management Situation identified 17 issues for analysis in the RMP/EIS. These issues are outlined in Chapter 1 of the Draft RMP/Draft EIS. In addition,

the Planning Criteria, which are the constraints or ground rules directing development of the RMP, are outlined in Appendix D (Legal Authorities, Planning Criteria and Management Direction and Consistency with Other Plans).

There have been numerous opportunities for public involvement in the process to date, including four separate public scoping meetings held in Burns, Frenchglen, Portland, and Bend, Oregon. A newsletter was also mailed to all interested parties requesting input on the alternatives, planning criteria, and the goals and objectives for resource management. In addition, the Steens Mountain Advisory Council and the Southeast Oregon Resource Advisory Council have closely participated in the process.

Numerous meetings have been held and coordination has been conducted with the Burns Paiute Tribal Council, Oregon Department of Fish and Wildlife, the Governor's Office, Oregon Department of Environmental Quality, U.S. Fish and Wildlife Service—Ecological Services and Malheur National Wildlife Refuge, the City of Burns, the City of Hines, Oregon Department of Water Resources, the Harney County Court, Harney County Chamber of Commerce, and adjacent BLM offices.

Dated: July 16, 2003.

**Elaine M. Brong,**

*State Director, Oregon/Washington.*

[FR Doc. 03-21072 Filed 9-18-03; 8:45 am]

**BILLING CODE 4310-33-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR-957-00-1420-BJ: GP03-0284]

#### Filing of Plats of Survey: Oregon/ Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of the following described lands were officially filed in the Oregon State Office, Portland, Oregon, on July 2, 2003.

#### Willamette Meridian

##### Oregon

T. 1 N., R. 10 E., accepted June 18, 2003.  
T. 21 S., R. 32 E., accepted June 18, 2003.  
T. 29 S., R. 9 W., accepted June 18, 2003.  
T. 36 S., R. 3 W., accepted June 18, 2003.  
T. 37 S., R. 3 W., accepted June 18, 2003.  
T. 38 S., R. 3 E., accepted June 18, 2003.

##### Washington

T. 21 N., R. 10 W., accepted June 18, 2003.  
T. 21 N., R. 11 W., accepted June 18, 2003.

The plats of survey of the following described lands were officially filed in the Oregon State Office, Portland, Oregon, July 23, 2003.

##### Oregon

T. 17 S., R. 8 W., accepted July 18, 2003.  
T. 19 S., R. 2 W., accepted July 18, 2003.

##### Washington

T. 39 N., R. 28 E., accepted July 18, 2003.

A copy of the plats may be obtained from the Public Room at the Oregon State Office, Bureau of Land Management, 333 S.W. 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest, (at the above address) with the State Director, Bureau of Land Management, Portland, Oregon.

**FOR FURTHER INFORMATION CONTACT:** Chief, Branch of Cadastral Survey, Bureau of Land Management (333 S.W. 1st Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: September 10, 2003.

**Robert D. DeViney, Jr.,**

*Branch of Realty and Records Services.*

[FR Doc. 03-23915 Filed 9-18-03; 8:45 am]

**BILLING CODE 4310-33-P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-493]

### Certain Zero-Mercury-Added Alkaline Batteries, Parts Thereof, and Products Containing Same; Notice of a Commission Determination Not to Review an Initial Determination Amending the Complaint and Notice of Investigation To Add a Respondent to the Investigation

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") of the presiding administrative law judge ("ALJ") granting the motion of complainants to amend the complaint and notice of investigation to add Hitachi Maxell, Ltd. as a respondent.

**FOR FURTHER INFORMATION CONTACT:** Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205-3041. Copies of the ALJ's ID and all

other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 27, 2003, based on a complaint filed by complainants Energizer Holdings, Inc. and Eveready Battery Co., Inc., both of St. Louis, MO, 68 FR 32771 (2003). The complaint as amended alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1-12 of U.S. Patent No. 5,464,709. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents 26 companies located in the United States, China, Indonesia, and Japan. *Id.* The ALJ has set September 2, 2004, as the target date for completion of the investigation.

The ALJ issued the subject ID on August 20, 2003. The ID grants the motion of complainants to add Hitachi Maxell, Ltd. of Tokyo, Japan as a respondent in the investigation and amend the complaint and notice of investigation to reflect this fact. The ALJ found that Hitachi Maxell, Ltd. is the parent corporation of another respondent in the investigation, Maxell Corporation of America. He also found that Hitachi Maxell, Ltd. has information that is relevant to the investigation and which is necessary for building a complete record. Therefore, he concluded that Hitachi Maxell, Ltd. should be added as a respondent in the investigation.

This action is taken under the authority of section 337 of the Tariff Act

of 1930, as amended, 19 U.S.C.1337, and Commission rule 210.42, 19 CFR 210.42.

Issued: September 12, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary.*

[FR Doc. 03-23918 Filed 9-18-03; 8:45 am]

**BILLING CODE 8040-01-P**

## INTERNATIONAL TRADE COMMISSION

[USITC SE-03-030]

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** October 3, 2003, at 11 a.m.

**PLACE:** Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205-2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** 1. Agenda for future meetings: none.

2. Minutes.

3. Ratification List.

4. Inv. Nos. 701-TA-430A and 430B and 731-TA-1019A and 1019B (Final)(Durum and Hard Red Spring Wheat from Canada)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before October 14, 2003.)

5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: September 16, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03-24094 Filed 9-17-03; 11:59 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

#### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study

of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in those decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wage payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities describe therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contained in expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Part 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related



Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further Information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

#### Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

##### Volume I:

##### Maine

ME030001 (Jun. 13, 2003)  
ME030002 (Jun. 13, 2003)  
ME300006 (Jun. 13, 2003)  
ME300008 (Jun. 13, 2003)

##### Volume II

None

##### Volume III

None

##### Volume IV

None

##### Volume V

None

##### Volume VI

##### Colorado

CO030001 (Jun. 13, 2003)  
CO030002 (Jun. 13, 2003)  
CO030003 (Jun. 13, 2003)  
CO030004 (Jun. 13, 2003)  
CO030005 (Jun. 13, 2003)  
CO030006 (Jun. 13, 2003)  
CO030007 (Jun. 13, 2003)  
CO030008 (Jun. 13, 2003)  
CO030009 (Jun. 13, 2003)  
CO030010 (Jun. 13, 2003)  
CO030011 (Jun. 13, 2003)  
CO030012 (Jun. 13, 2003)  
CO030013 (Jun. 13, 2003)  
CO030014 (Jun. 13, 2003)  
CO030015 (Jun. 13, 2003)  
CO030016 (Jun. 13, 2003)  
CO030017 (Jun. 13, 2003)

##### Volume VII:

None

#### General Wage Determination Publication

General wage determination issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage" determinations Issued Under the Davis-Bacon And Related Act". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office at [www.access.gpo.gov/davisbacon](http://www.access.gpo.gov/davisbacon). They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscription include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the Year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 11th day of September 2003.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 03-23574 Filed 9-18-03; 8:45 am]

**BILLING CODE 4510-27-M**

#### DEPARTMENT OF LABOR

#### Mine Safety and Health Administration

#### Summary of Decisions Granting in Whole or In-Part Petitions for Modification

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

**SUMMARY:** Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term "FR Notice" appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

**FOR FURTHER INFORMATION CONTACT:** Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. Contact Barbara Barron at 202-693-9447.

Dated at Arlington, Virginia this 12th day of September 2003.

**Marvin W. Nichols, Jr.,**

*Director, Office of Standards, Regulations, and Variances.*

#### Affirmative Decisions on Petitions for Modification

*Docket No.:* M-2001-109-C.

*FR Notice:* 66 FR 67550.

*Petitioner:* Elk Run Coal Company, Inc.

*Regulation Affected:* 30 CFR 75.364(b)(2).

*Summary of Findings:* Petitioner's proposal is to conduct weekly evaluations in certain areas of the return air course to measure the quantity and quality of air at 3 monitoring stations using hand-held gas detection devices and anemometers due to severe



deterioration and roof falls. The petitioner asserts that conducting weekly examinations by traveling the affected area in its entirety would be unsafe and would cause a diminution of safety to the examiner. This is considered an acceptable alternative method for the Black King I North Portal. MSHA grants the petition for modification for the unsafe-to-travel segment (approximately 4,750 feet) of the South Mains return entries to outcrop for the Black King I North Portal with conditions.

*Docket No.:* M-2001-124-C.

*FR Notice:* 67 FR 6754.

*Petitioner:* Warrior Coal, LLC.

*Regulation Affected:* 30 CFR 75.350.

*Summary of Findings:* Petitioner's proposal is to use belt air to ventilate working faces and use the same monitoring system to identify the location of a detected fire by sensor location rather than by belt flight. This is considered an acceptable alternative method for the Cardinal Mine. MSHA grants the petition for modification to allow air coursed through conveyor belt haulage entries to be used to ventilate active working places for the Cardinal Mine with conditions.

*Docket No.:* M-2002-011-C.

*FR Notice:* 67 FR 13197.

*Petitioner:* Hobet Mining, Inc.

*Regulation Affected:* 30 CFR 77.206(c).

*Summary of Findings:* Petitioner's proposal is to use a SAF-T-CLIMB fall prevention system on its counterweight tower structure for the overland system and the Beth Station No. 9 Preparation Plant in lieu of using a vertical ladder. This is considered an acceptable alternative method for the Beth Station No. 79 Preparation Plant. MSHA grants the petition for modification for the use of SAF-T-CLIMB or other equivalent fall prevention system at every permanently attached vertical ladder used at counterweight towers during maintenance work on the overland conveyor system for use at the Beth Station No. 79 Preparation Plant with conditions.

*Docket No.:* M-2002-053-C.

*FR Notice:* 67 FR 49966.

*Petitioner:* Perry County Coal Corporation.

*Regulation Affected:* 30 CFR 75.364(b)(1).

*Summary of Findings:* Petitioner's proposal is to relocate approved check points 9A and 9B in the intake of the Southeast Mains one break outby the No. 9 entry of the Roll Mains and establish one new check point (examination point) 10A in the return of the Southeast Mains in the No. 1 Entry

located at the 44 Seals, six break inby the No. 1 Head Drive. The petitioner proposes to establish air measurement stations at locations that would allow effective evaluation of ventilation in the areas affected by deteriorating roof and rib conditions and have a certified person evaluate these stations on a weekly basis. The petitioner requested a modification of existing standard 30 CFR 75.364(b)(2). After further review of this petition, it was determined that modification should be for existing standard 30 CFR 75.364(b)(1). This is considered an acceptable alternative method for the HZ4-1 Mine. MSHA grants the petition for modification for use at the HZ4-1 Mine with conditions.

*Docket No.:* M-2002-054-C.

*FR Notice:* 67 FR 49966.

*Petitioner:* Titan Mining, Inc.

*Regulation Affected:* 30 CFR 75.503 (18.41(f) of Part 18).

*Summary of Findings:* Petitioner's proposal is to use a spring-loaded locking device with specific fastening characteristics in lieu of a padlock to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve, to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the Laurel Fork Deep Mine. MSHA grants the petition for modification for use at the Laurel Fork Deep Mine with conditions.

*Docket No.:* M-2002-062-C.

*FR Notice:* 67 FR 54675.

*Petitioner:* Buck Mountain Coal Company.

*Regulation Affected:* 30 CFR 75.1002(a).

*Summary of Findings:* Petitioner's proposal is to use non-permissible electric equipment within 150 feet of the pillar line. This equipment would include drags and battery locomotives due in part to the method of mining used in pitching anthracite mines and the alternative evaluation of the mine air quality for methane on an hourly basis during operation. This is considered an acceptable alternative method for the Buck Mountain Slope Mine. MSHA grants the petition for modification for the Buck Mountain Slope Mine with conditions.

*Docket No.:* M-2002-072-C.

*FR Notice:* 67 FR 59317.

*Petitioner:* Snyder Coal Company.

*Regulation Affected:* 30 CFR 75.1002(a).

*Summary of Findings:* Petitioner's proposal is to use non-permissible electric equipment within 150 feet of

the pillar line. This equipment would include drags and battery locomotives due in part to the method of mining used in pitching anthracite mines and the alternative evaluation of the mine air quality for methane on an hourly basis during operation. This is considered an acceptable alternative method for the Rattling Run Slope Mine. MSHA grants the petition for modification for the Rattling Run Slope Mine with conditions.

*Docket No.:* M-2002-082-C.

*FR Notice:* 67 FR 66168.

*Petitioner:* Speed Mining, Inc.

*Regulation Affected:* 30 CFR 75.1700.

*Summary of Findings:* Petitioner's proposal is to amend its previous petition docket number M-2001-041-C. The petitioner proposes to drill out each of the oil wells as already specified in its previous petition; pump the expandable cement to the bottom of the lowest minable seam (Eagle) and pump Portable Class "A" cement on top of the expandable plug to the next Powellton Seam which is approximately 117 feet above, and is the anticipated area for broken strata due to subsidence. The petitioner will leave the area from the Powellton Seam to the surface open for release of methane from the longwall gob after the longwall has intersected the well. This is considered an acceptable alternative method for the American Eagle Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to Section 75.1700) plugged oil or gas wells penetrating the Eagle Coal Seam and other minable coal seams using continuous miners, conventional mining or longwall mining methods at the American Eagle Mine with conditions.

*Docket No.:* M-2002-092-C.

*FR Notice:* 67 FR 71988.

*Petitioner:* Mountain Side Coal Company.

*Regulation Affected:* 30 CFR 49.2(b).

*Summary of Findings:* Petitioner's proposal is to provide two mine rescue teams, each consisting of three members and one alternate to provide coverage for both teams at the Mountain Side Mine. The petitioner will provide a total of seven mine rescue team members. This is considered an acceptable alternative method for the Mountain Side Mine. MSHA grants the petition for modification for the Mountain Side Mine with conditions.

*Docket No.:* M-2002-093-C.

*FR Notice:* 67 FR 71988.

*Petitioner:* Mountain Side Coal Company.

*Regulation Affected:* 30 CFR 75.335(a)(1).

*Summary of Findings:* Petitioner's proposal is to use wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criteria in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs. This is considered an acceptable alternative method for the Mountain Side Mine. MSHA grants the petition for modification for seals installed in the Mountain Side Mine with conditions.

*Docket No.:* M-2002-094-C.

*FR Notice:* 67 FR 71988.

*Petitioner:* Mountain Side Coal Company.

*Regulation Affected:* 30 CFR 75.1100-2(a)(2).

*Summary of Findings:* Petitioner's proposal is to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage equipped with three (3) ten quart pails is not practical, and to use two (2) portable fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working for equivalent fire protection. This is considered an acceptable alternative method for the Mountain Side Mine. MSHA grants the petition for modification for firefighting equipment in the working section at the Mountain Side Mine with conditions.

*Docket No.:* M-2002-098-C.

*FR Notice:* 67 FR 71989.

*Petitioner:* Mountain Side Coal Company.

*Regulation Affected:* 30 CFR 75.1400.

*Summary of Findings:* Petitioner's proposal is to use a slope conveyance (gunboat) for transporting persons without installing safety catches or other no less effective devices. The petitioner instead proposes to use increased rope strength and secondary safety rope connections in place of such devices. This is considered an acceptable alternative method for the Mountain Side Mine. MSHA grants the petition for modification for use of the hoist conveyance (gunboat) without safety catches at the Mountain Side Mine with conditions.

*Docket No.:* M-2002-113-C.

*FR Notice:* 68 FR 1484.

*Petitioner:* Monterey Coal Company.

*Regulation Affected:* 30 CFR 75.350.

*Summary of Findings:* Petitioner's proposal is to use belt air to ventilate working places from a location inby the

furthest inby conveyor drive for the remaining length of the panels. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. This is considered an acceptable alternative method for the No. 1 Mine. MSHA grants the petition for modification to allow air coursed through conveyor belt haulage entries to be used to ventilate active working places in longwall development sections and in retreating longwall panels, from a location inby the furthest inby conveyor drive for the remaining length of the development section or retreating panel for the No. 1 Mine with conditions.

*Docket No.:* M-2002-117-C.

*FR Notice:* 68 FR 1485.

*Petitioner:* Energy West Mining Company.

*Regulation Affected:* 30 CFR 75.901(a).

*Summary of Findings:* Petitioner's proposal is to request a modification of the standard to allow the electrical grounding requirements for portable diesel-driven electric generators to be waived based on the use of ground fault detection, ground wire monitoring, and other circuit protection means, such as short circuit, over-current and undervoltage protection. This is considered an acceptable alternative method for the Deer Creek Mine. MSHA grants the petition for modification for use of the 200 KW/250 KVA, 480-volt, diesel powered generator (DPG) set to supply power to three-phase 480-volt and 995-volt power circuits to move mobile equipment around the mine and to provide temporary power to mobile equipment and pumps in outby locations for the Deer Creek Mine with conditions.

*Docket No.:* M-2002-119-C.

*FR Notice:* 68 FR 1485.

*Petitioner:* H & M Coal Company.

*Regulation Affected:* 30 CFR 49.2(b).

*Summary of Findings:* Petitioner's proposal is to provide two mine rescue teams, each consisting of three members and one alternate to provide coverage for both teams at the Rocky Top Mine. The petitioner will provide a total of seven mine rescue team members. This is considered an acceptable alternative method for the Rocky Top Mine. MSHA grants the petition for modification for the Rocky Top Mine with conditions.

*Docket No.:* M-2002-120-C.

*FR Notice:* 68 FR 1485.

*Petitioner:* H & M Coal Company.

*Regulation Affected:* 30 CFR 75.1100-2(a).

*Summary of Findings:* Petitioner's proposal to use portable fire

extinguishers only to replace existing requirements where rock dust, water cars, and other water storage equipped with three (3) ten quart pails is not practical. The petitioner proposes to use two (2) portable fire extinguishers near the slope bottom, and an additional portable fire extinguisher within 500 feet of the working face for equivalent fire protection for the Rocky Top Mine. This is considered an acceptable alternative method for the Rocky Top Mine. MSHA grants the petition for modification for firefighting equipment in the working section at the Rocky Top Mine with conditions.

*Docket No.:* M-2002-121-C.

*FR Notice:* 68 FR 1485.

*Petitioner:* H & M Coal Company.

*Regulation Affected:* 30 CFR 75.1200(d) and (i).

*Summary of Findings:* Petitioner's proposal is to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope. The petitioner also proposes to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined except those veins that are interconnected to other veins beyond the 100-foot limit through rock tunnels. This is considered an acceptable alternative method for the Rocky Top Mine. MSHA grants the petition for modification for use at the Rocky Top Mine with conditions.

*Docket No.:* M-2002-122-C.

*FR Notice:* 68 FR 1486.

*Petitioner:* H & M Coal Company.

*Regulation Affected:* 30 CFR 75.1202 and 30 CFR 75.1202-1(a).

*Summary of Findings:* Petitioner's proposal is to revise and supplement mine maps annually instead of every 6 months as required, and to update maps daily by hand notations. This is considered an acceptable alternative method for the Rocky Top Mine. MSHA grants the petition for modification for annual revisions and supplements of the mine map at the Rocky Top Mine with conditions.

*Docket No.:* M-2002-123-C.

*FR Notice:* 68 FR 3897.

*Petitioner:* Double M Mining, Inc.

*Regulation Affected:* 30 CFR 77.214(a).

*Summary of Findings:* Petitioner's proposal is to cover the coal seam with inert material, backfill and eliminate the highwall with refuse on a 2 to 1 slope and cover with soil in order to reclaim the site where face up and the adjacent areas of the mine have been augered and now needs to be reclaimed. This is

considered an acceptable alternative method for the Auger #2 Mine. MSHA grants the petition for modification for the Auger #2 Mine with conditions.

*Docket No.:* M-2003-002-C.

*FR Notice:* 68 FR 3898.

*Petitioner:* KenAmerican Resources, Inc.

*Regulation Affected:* 30 CFR 75.1909(b)(6).

*Summary of Findings:* Petitioner's proposal is to limit the speed of its diesel graders to 20 miles per hour (mph), and train the grader operators in the proper techniques for lowering the blade to provide additional stopping capability in emergency situations, in lieu of using front wheel brakes on the DAPCO, Serial No. 001 grader powered by a Deutz diesel engine Model #BF4M1012EC. The grader(s) has six wheels and are used at the Paradise No. 9 Mine. This is considered an acceptable alternative method for the Paradise No. 9 Mine. MSHA grants the petition for modification for use at the Paradise No. 9 Mine with conditions.

*Docket No.:* M-2003-008-C.

*FR Notice:* 68 FR 8050.

*Petitioner:* Ken American Resources, Inc.

*Regulation Affected:* 30 CFR 75.519-1(b).

*Summary of Findings:* Petitioner's proposal is to move its disconnecting switch to the main travelway in the 2nd crosscut from the slope bottom in lieu of installing a disconnecting switch underground within 500 feet of the bottom of the borehole. This is considered an acceptable alternative method for the Paradise No. 9 Mine. MSHA grants the petition for modification for the distance of the disconnecting switch from the bottom of the shaft or borehole for use at the Paradise No. 9 Mine with conditions.

*Docket No.:* M-2003-009-C.

*FR Notice:* 68 FR 8050.

*Petitioner:* Alfred Brown Coal Company.

*Regulation Affected:* 30 CFR 49.2(b).

*Summary of Findings:* Petitioner's proposal is to provide two mine rescue teams, each consisting of three members and one alternate to provide coverage for both teams at the 7 Ft. Slope Mine. The petitioner will provide a total of seven mine rescue team members. This is considered an acceptable alternative method for the 7 Ft. Slope Mine. MSHA grants the petition for modification for the 7 Ft. Slope Mine with conditions.

*Docket No.:* M-2003-010-C.

*FR Notice:* 68 FR 10048.

*Petitioner:* Jim Walter Resources, Inc.

*Regulation Affected:* 30 CFR 75.1002.

*Summary of Findings:* Petitioner's proposal is to use a 2,400-volt power

center with a high-voltage trailing cable to power a continuous miner in by the last open crosscut and within 150 feet of pillar workings. This is considered an acceptable alternative method for the No. 7 Mine. MSHA grants the petition for modification for use of the 2,400-volt high-voltage continuous miner(s) at the No. 7 Mine with conditions.

*Docket No.:* M-2003-014-C.

*FR Notice:* 68 FR 15244.

*Petitioner:* Lodestar Energy Incorporated.

*Regulation Affected:* 30 CFR 75.1101-1(b).

*Summary of Findings:* Petitioner's proposal is to have a trained person conduct a weekly visual examination and a functional test on each deluge-type fire suppression system installed at conveyor belt drives in lieu of using blow-off dust covers for nozzles. The petitioner proposes to actuate the water system and observe its performance to ensure that nozzles are not blocked. This is considered an acceptable alternative method for the Baker Mine. MSHA grants the petition for modification for the Baker Mine with conditions.

*Docket No.:* M-2003-019-C.

*FR Notice:* 68 FR 15245.

*Petitioner:* Maple Creek Mining, Inc.

*Regulation Affected:* 30 CFR 75.1400(e).

*Summary of Findings:* Petitioner's proposal is to use an electric slope hoist to transport miners in and out of the mine. This is considered an acceptable alternative method for the High Quality Mine. On April 8, 2003, MSHA grants the petition for modification for a period ending twelve months from the effective date of the Proposed Decision and Order for the High Quality Mine with conditions. MSHA grants Application for Relief to Give Effect to April 7, 2003.

*Docket No.:* M-2003-020-C.

*FR Notice:* 68 FR 15245.

*Petitioner:* Highland Mining Company.

*Regulation Affected:* 30 CFR 75.1909(b)(6).

*Summary of Findings:* Petitioner's proposal is to use a Getman diesel grader underground with only rear wheel brakes at the Highland 9 Mine in lieu of using front wheel brakes. The petitioner proposes to limit the diesel grader speed to a maximum of 10 miles per hour and train the operators on proper procedures to use if the brakes on the grader fail. This is considered an acceptable alternative method for the Highland 9 Mine. MSHA grants the petition for modification for the Getman RDG-1504S Diesel Road Grader, Serial No. 6323, Powered by a Cat 3306PCNA

150 Horsepower diesel engine with 6 wheels for use at the Highland 9 Mine with conditions.

*Docket No.:* M-2003-021-C.

*FR Notice:* 68 FR 16311.

*Petitioner:* HB Coal Company, Inc.

*Regulation Affected:* 30 CFR 75.342.

*Summary of Findings:* Petitioner's proposal is to use a hand-held continuous multi-gas detector, which detects oxygen, methane, and carbon monoxide for the three wheel tractors (Mescher tractors) in lieu of using a machine-mounted methane monitor. This is considered an acceptable alternative method for the No. 1 Mine. MSHA grants the petition for modification for the Mescher permissible three-wheel battery-powered tractors used to load coal at the No. 1 Mine with conditions.

*Docket No.:* M-2003-022-C.

*FR Notice:* 68 FR 16311.

*Petitioner:* HB Coal Company, Inc.

*Regulation Affected:* 30 CFR 75.380(f)(4)(i).

*Summary of Findings:* Petitioner's proposal is to use two ten-pound portable chemical fire extinguishers in the operator's deck of each Mescher tractor operated at the No. 1 Mine. The petitioner also proposes to instruct the equipment operator to inspect each fire extinguisher on a daily basis prior to entering the primary escapeway and maintain a record of the daily inspection at the mine. The petitioner further proposes to maintain a sufficient number of spare fire extinguishers at the mine in case a defective fire extinguisher is detected. This is considered an acceptable alternative method for the No. 1 Mine. MSHA grants the petition for modification for the Mescher three wheel tractors to be operated in the primary intake escapeway at the No. 1 Mine with conditions.

[FR Doc. 03-23910 Filed 9-18-03; 8:45 am]

BILLING CODE 4510-43-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03-114)]

### Advanced Space Transportation Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** The National Aeronautics and Space Administration announces a forthcoming meeting of the Advanced Space Transportation Subcommittee (ASTS).

**DATES:** Wednesday, October 15, 2003, 8:30 a.m. to 5:30 p.m., and Thursday, October 16, 2003, 8 a.m. to 9:30 a.m.

**ADDRESSES:** Cocoa Beach, Holiday Inn, 1300 N. Atlantic Avenue, Cocoa Beach, FL 32931.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary-Ellen McGrath, Office of Aerospace Technology, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358-4729.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Overview of Agenda
- Welcome/Opening Remarks
- Review of Action Items
- ATAC and Space Transportation Update
- ISTP Update
- OSP Update
- NGLT Update
- USAF/NASA Cooperative Planning
- Advanced Range Technology/Spaceport Working Group
- Panel Member Discussion

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

**June W. Edwards,**

*Advisory Committee Management Officer,  
National Aeronautics and Space Administration.*

[FR Doc. 03-23983 Filed 9-18-03; 8:45 am]

**BILLING CODE 7510-01-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03-113)]

### NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** The National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness (IOR).

**DATES:** Wednesday, October 15, 2003, 2 p.m.-3 p.m. Eastern Standard Time.

**ADDRESSES:** NASA Headquarters, 300 E Street, SW., Room 7U22, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Mr. Todd F. McIntyre, Code IH, National Aeronautics and Space Administration, Washington, DC 20546-0001, 202/358-4621.

**SUPPLEMENTARY INFORMATION:** This meeting will be open to the public up to the seating capacity of the room. Five seats will be reserved for members of the press. The agenda for the meeting is as follows:

- To assess the operational readiness of the International Space Station to support a new crew.
- To assess the American and Russian flight team's preparedness to accomplish the Expedition Eight mission.
- To assess the health and flight readiness of the Expedition Eight crew.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/greencard information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees can provide identifying information in advance by contacting Todd F. McIntyre via e-mail at [Todd.McIntyre-1@nasa.gov](mailto:Todd.McIntyre-1@nasa.gov) or by telephone at (202) 358-4621. Attendees will be escorted at all times.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

**June W. Edwards,**

*Advisory Committee Management Officer,  
National Aeronautics and Space Administration.*

[FR Doc. 03-23982 Filed 9-18-03; 8:45 am]

**BILLING CODE 7510-01-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03-112]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** NASA hereby gives notice that IVEK Corporation of 10 Fairbanks Road, N. Springfield, Vermont 05150, has applied for a partially exclusive license to practice the inventions described in NASA Case Numbers LAR 16289-1 entitled "Electro-Active Transducer Using Radial Electric Field

To Produce/Sense Out-of-Plane Transducer Motion," LAR 16363-1 entitled "Electro-Active Device Using Radial Electric Field Piezo-Diaphragm For Control Of Fluid Movement," LAR 16393-1 entitled "Electro-Active Device Using Radial Electric Field Piezo-Diaphragm For Sonic Applications," LAR 16289-1-PCT entitled "Electro-Active Transducer Using Radial Electric Field To Produce/Sense Out-of-Plane Transducer Motion," LAR 16363-1PCT entitled "Electro-Active Device Using Radial Electric Field Piezo-Diaphragm For Control Of Fluid Movement," and LAR 16393-1-PCT entitled "Electro-Active Device Using Radial Electric Field Piezo-Diaphragm For Sonic Applications" for which U.S. Patent and PCT Applications were filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

**DATES:** Responses to this notice must be received by October 6, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kurt G. Hammerle, Patent Attorney, Mail Stop 212, NASA Langley Research Center, Hampton, VA 23681-2199. Telephone 757-864-2470; Fax 757-864-9190.

Dated: September 12, 2003.

**Robert M. Stephens,**

*Deputy General Counsel.*

[FR Doc. 03-23909 Filed 9-18-03; 8:45 am]

**BILLING CODE 7510-01-P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collections; Comment Request

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

**DATES:** Comments will be accepted until October 20, 2003.

**ADDRESSES:** Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

*Clearance Officer:* Mr. Neil McNamara, (703) 518-6447, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-518-6669, E-mail: [mcnamara@ncua.gov](mailto:mcnamara@ncua.gov).

*OMB Reviewer:* Mr. Joseph F. Lackey (202) 395-4741, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, Neil McNamara, (703) 518-6447.

**SUPPLEMENTARY INFORMATION:** Proposal for the following collection of information:

*OMB Number:* 3133-0108.

*Form Number:* N/A.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Title:* 12 C.F.R. 748.2 Monitoring Bank Secrecy Act Compliance.

*Description:* The collection is needed to allow NCUA to determine whether credit unions have established a program reasonably designed to assure and monitor their compliance with currency recordkeeping and reporting requirements established by Federal statute and Department of Treasury Regulations.

*Respondents:* Federally Insured Credit Unions.

*Estimated No. of Respondents/Recordkeepers:* 9,562.

*Estimated Burden Hours Per Response:* 7 hours.

*Frequency of Response:* recordkeeping.

*Estimated Total Annual Burden Hours:* 28,791.

*Estimated Total Annual Cost:* not applicable.

By the National Credit Union Administration Board on September 10, 2003.

**Becky Baker,**

*Secretary of the Board.*

[FR Doc. 03-23906 Filed 9-18-03; 8:45 am]

**BILLING CODE 7535-01-P**

## NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

### Fingerprint Submission Requirement Rule

**AGENCY:** National Crime Prevention and Privacy Compact Council.

**ACTION:** Notice of the Compact Council's approval of a Transportation Security Administration proposal to utilize the Fingerprint Submission Requirements Rule, Title 28 Code of Federal Regulations (CFR), part 901.

**Authority:** 42 U.S.C. 14616.

**SUMMARY:** Pursuant to 28 CFR part 901, the Compact Council (Council), established by the National Crime Prevention and Privacy Compact Act of 1998 (Compact), has approved a proposal from the Transportation Security Administration (TSA) to access the Interstate Identification Index (III) System on a delayed fingerprint submission basis for conducting criminal history record checks on individuals requesting issuance or renewal of a hazardous materials (hazmat) endorsement on a commercial driver's license (CDL). (See attached Proposal.) The TSA requested approval of its proposal to conduct preliminary III name-based checks as a responsive and timely avenue to support security threat assessments on all individuals seeking a hazmat endorsement as mandated by section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act). The approval of TSA's proposal is a temporary measure to be used while its infrastructure for fingerprint-based criminal history record checks is being developed.

This notice and TSA's proposal act as companion documents to facilitate TSA's interim final rule published in the **Federal Register** on May 5, 2003 (49 CFR parts 1570 and 1572, 68 FR 23852). The TSA interim final rule was published in coordination with the Federal Motor Carrier Safety Administration's (FMCSA) interim final rule published in the **Federal Register** on the same date (49 CFR parts 383 and 384, 68 FR 23844). The FMCSA interim final rule amends the Federal Motor Carrier Safety Regulations governing commercial drivers licenses to prohibit states from issuing, renewing, transferring, or upgrading a commercial driver's license with a hazmat endorsement unless the Department of Justice has first conducted a background records check of the applicant and the

TSA has determined that the applicant does not pose a security threat warranting denial of the hazmat endorsement.

#### FOR FURTHER INFORMATION CONTACT:

Todd C. Commodore, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Telephone (304) 625-2803; e-mail [tcommodo@leo.gov](mailto:tcommodo@leo.gov); Fax number (304) 625-5388.

**SUPPLEMENTARY INFORMATION:** See attached proposal.

Dated: July 15, 2003.

**Wilbur W. Rehmann,**

*Chairman, Compact Council.*

#### Formal Request Memorandum to the Compact Council

The Transportation Security Administration (TSA) seeks approval under Parts 901.2 and 901.3 of title 28, Code of Federal Regulations, for access to the National Crime Information Center (NCIC) (including the Interstate Identification Index (III)), on a delayed fingerprint submission basis, so that name-based criminal history records checks can be conducted expeditiously on certain commercial truck drivers. The USA PATRIOT Act, Pub. L. 107-56, Section 1012, *et seq.*; 49 U.S.C. 5103a)<sup>1</sup> requires a background check for any individual authorized or seeking to carry hazardous materials (hazmat). TSA will carry out this statutory provision as set forth below.

A. Name-based background checks will be initiated on [effective date of the rule]. If the background check discloses a conviction or incarceration for a disqualifying offense within the time periods specified in the Interim Final Rule, TSA will notify the individual that he or she is disqualified from

<sup>1</sup> In pertinent part, the Act reads:

A. 5103a(a) Limitation.

(1) Issuance of licenses. A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless the Secretary of Transportation has first determined, upon receipt of a notification under subsection (c)(1)(B), that the individual does not pose a security risk warranting denial of the license\* \* \*

(c) Background records check.

(1) In general. Upon the request of a State regarding issuance of a license described in subsection (a)(1) to an individual, the Attorney General—

(A) shall carry out a background records check regarding the individual; and

(B) upon completing the background records check, shall notify the Secretary of Transportation of the completion and results of the background records check.

(2) Scope. A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history databases.

(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international databases through Interpol-U.S. National Central Bureau or other appropriate means.

transporting hazmat. If the individual asserts that the results of the name-based background check are not accurate, the individual will submit fingerprints and/or relevant court documents so that the record may be corrected or the disqualifying offense may be verified.

B. Drivers whose name-based background checks do not indicate a disqualifying offense or incarceration within the time periods specified in the Interim Final Rule will be required to submit fingerprints in the period between 180 days and 5 (five) years from the effective date of the Interim Final Rule, or when applying for a new or renewed hazmat endorsement of their Commercial Driver's License (CDL), whichever occurs first.

C. If a name-based background check discloses that a driver is the subject of an outstanding felony want or warrant, TSA will ensure that the appropriate law enforcement agency is notified.

Such criminal history records checks are to include the review of available law enforcement databases and records as determined necessary by the Administrator of the Transportation Security Administration. In addition, TSA will be accessing other data sources as part of its effort to conduct background checks on commercial truck drivers who are authorized to carry hazardous materials.

TSA makes this request for the following reasons:

- In accordance with the USA PATRIOT Act, TSA must process criminal history records checks on more than three million commercial truck drivers who transport hazardous materials.

- Congress has determined that conducting background checks on commercial truck drivers transporting hazardous materials is a national priority. Given this urgency and the enormous volume of drivers to be checked, it is vital that TSA be given some latitude in conducting the background checks by first utilizing name-based checks while the infrastructure for fingerprint-based checks is put in place.

- TSA believes there are considerable gains in security to be made by using name-based background checks followed by fingerprint-based checks.

TSA proposes to carry out name-based background checks within the following parameters:

A. At the first Compact Council meeting following the conduct of name-based background checks for at least 180 days ("180-day test period"), TSA shall report back to the Compact Council. During a period of 180 days, TSA will work with the following entities to develop a comprehensive infrastructure for capturing and processing fingerprints of hazmat CDL holders:

- a. The Compact Council;
- b. State central repositories;
- c. State Departments of Motor Vehicles (DMVs);
- d. The CJIS Division of the FBI, including its Advisory Policy Council;
- e. SEARCH;
- f. The International Association of Chiefs of Police (IACP); and
- g. The American Association of Motor Vehicle Administrators.

B. The public will be notified in advance that drivers will be subject to a name-based background check. The mechanisms for notification will include the **Federal Register** and communications with the States, the trucking industry, and the driver corps.

C. In no more than 180 days, TSA will have the infrastructure in place to begin fingerprinting all current HAZMAT drivers.

D. All fees for fingerprint collection and processing will be borne by the individual subject to the background check, or by his or her employer.

TSA proposes use of NCIC (including III) to determine whether applicants present a potential terrorist threat or may otherwise be a threat to transportation security. Given the terrorist threat level in transportation, existing statutory mandates, and the lack of adequate infrastructure to conduct fingerprint-based checks, TSA proposes to draw on the ability of NCIC (including III) to provide criminal history data on hazmat drivers.

Approved: March 13, 2003.

Francine J. Kerner,  
Transportation Security Administration.

Agreed to: March 13, 2003.

Wilbur W. Rehmann  
Compact Council.

[FR Doc. 03-23916 Filed 9-18-03; 8:45 am]

**BILLING CODE 4410-02-P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Revised Notice of Meeting

For the 145th meeting of the Advisory Committee on Nuclear Waste (ACNW) which has now been rescheduled for September 23-24, 2003, instead of September 16-18, 11545 Rockville Pike, Rockville, Maryland.

Notice of this meeting was published in the **Federal Register** on Monday, September 8, 2003 (68 FR 52972). Following is the information for this meeting.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

#### Tuesday, September 23, 2003

*10:30 A.M.-10:40 A.M.: Opening Statement* (Open)—The Chairman will open the meeting with brief opening remarks, outline the topics to be discussed, and indicate items of interest.

*10:40 A.M.-12 Noon.: Commission Presentations* (Open)—The Committee will discuss its presentation for the October 23, 2003 public meeting with the NRC Commissioners. Topics proposed for discussion:

- Chairman's Report
- High-Level Waste Risk Insights

- TSPA/TPA Working Group
- Performance Confirmation Working Group
- Status and Pathway to Closure on KTIs

*1 P.M.-6 P.M.: Committee Retreat* (Open)—The focus of the September 2003 retreat is to identify the suite of topics that the Committee intends to examine over the next 12 to 18 months. The topics to be proposed would be consistent with the priorities defined in Action Plan as well as earlier Committee discussions with the Commission and NMSS management.

#### Wednesday, September 24, 2003

*8:30 A.M.-8:35 A.M.: Opening Statement* (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

*8:35 A.M.-1 P.M.: Committee Retreat* (Continued) (Open)—The Committee will identify specific topics and its plans for review of the relevant High-Level Waste issues from the present to the submission by DOE of a license application for the Yucca Mountain repository.

*1 P.M.-1:15 P.M.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 11, 2002 (67 FR 63459). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Mr. Howard J. Larson, ACNW (Telephone 301/415-6805), between 7:30 A.M. and 4 P.M. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Howard J. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Howard J. Larson.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at [pdr@nrc.gov](mailto:pdr@nrc.gov), or by calling the PDR at 1-800-397-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/> (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301/415-8066), between 7:30 a.m. and 3:45 p.m. ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: September 15, 2003.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*  
[FR Doc. 03-23948 Filed 9-18-03; 8:45 am]  
BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48491; File No. SR-CSE-2003-10]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Cincinnati Stock Exchange, Inc. To Eliminate Market Order Exposure Requirements

September 12, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 7, 2003, The Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the

proposed rule change as described in Items I, II and III below, which Items have been prepared by the CSE. 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 CSE is proposing to amend CSE Rule 11.9(u) to eliminate Interpretation .01, concerning market order exposure requirements ("Market Order Exposure Requirement").<sup>3</sup> The CSE is also proposing to amend CSE Rule 8.15 to remove a reference to Interpretation .01 of Rule 11.9(u). The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].<sup>4</sup>

#### Rule 8.15. Imposition of Fines for Minor Violation(s) of Rules

\* \* \* \* \*

#### Interpretations and Policies

.01 List of Exchange Rule Violations and Fines Applicable thereto Pursuant to Rule 8.15:

(a)-(g) No Change to Text.

[(h) Rule 11.9(u) and Interpretation .01 related to the requirement to immediately execute market orders at an improved price or expose the market order on the Exchange for a minimum of fifteen seconds in an attempt to improve the price.

Recommended Fine Amount  
\$1,000 first violation of the 2% quarterly threshold  
\$2,500 second violation  
Third violation Business Conduct Committee Hearing]

\* \* \* \* \*

#### Rule 11.9(u), Interpretations and Policies

\* \* \* \* \*

[.01 Market Order Exposure Requirement

(a) Consistent with his or her agency responsibility to exercise due diligence,

<sup>3</sup> As a result of the amendment, the relevant interpretations and policies contained in CSE Regulatory Circulars 01-07, 99-03, 98-06, 97-07, 96-04 will also be repealed.

<sup>4</sup> At the request of the Exchange, the Commission has revised the proposed rule text (i) to insert the word "wide" at the end of clauses (a)1, (a)2 and (a)3; (ii) to reflect that the proposed rule change would not change the text of paragraph (g) of CSE Rule 8.15, Interpretation .01; and (iii) to correct a typographical error in paragraph (b)1.i. of Rule 11.9(u), Interpretation .01. Telephone conversation between Jeffrey T. Brown, Senior Vice President, Regulation and General Counsel, Exchange and Ann E. Leddy, Attorney, Division of Market Regulation, Commission (September 12, 2003).

a member must comply with the following procedures which provide the opportunity for public agency buy/sell market orders in securities other than Nasdaq/NM securities to receive a price lower/higher than the disseminated national best offer/bid.

Except under unusual market conditions or if it is not in the best interests of the customer, Preferencing Dealers must immediately price improve or expose for a minimum of five seconds in an attempt to improve the price:

1. market orders with sizes less than or equal to 1000 shares when the NBBO at time of order receipt is more than 5 cents (\$.05) wide;

2. market orders with sizes between 1001 shares and 5000 shares when the NBBO at time of order receipt is more than 10 cents (\$.10) wide; and

3. market orders with sizes above 5000 shares when the NBBO at time of order receipt is more than 15 cents (\$.15) wide.

(b) to assist Preferencing Dealers in satisfying their obligations under the rule, the following exceptions apply:

#### 1. Unusual Market Conditions

Unusual market conditions include the following conditions:

i. the NBBO is more than 1 dollar (\$.100) wide at receipt;

ii. the market is locked or crossed at receipt or becomes that way during exposure;

iii. when circuit breakers have been activated;

iv. during and immediately after the opening (a period not to exceed 5 minutes);

v. immediately prior to the close (a period not to exceed 5 minutes);

vi. when the Exchange has declared a fast market; and

vii. when non-firm markets exist.

2. Best Interests of the Customer

In order to protect the best interests of the customer, the following orders may require unique handling subject to the application of a member's brokerage judgment and experience as required by CSE Rule 12.10, Best Execution:

i. block size market orders as defined in the Intermarket Trading System Plan;

ii. odd-lot orders;

iii. contingent orders;

iv. a market order for a quantity that exceeds the existing NBBO size;

v. NBBO moves in direction of market order stop price; and

vi. Primary market trades at market order stop price.]

#### [.02].01 Limit Order Protection

No Change to Text.

\* \* \* \* \*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 purpose of the proposed rule change is to amend CSE Rule 11.9(u) to eliminate Interpretation .01, which requires preferencing designated dealers ("PDDs") trading Intermarket Trading System ("ITS") securities, except under unusual market conditions or if it is not in the best interest of the customer, when the spread between the national best bid and offer is greater than the minimum price variation, immediately either to execute a market order at an improved price or expose the market order for a minimum of fifteen seconds in an attempt to improve the price.<sup>5</sup> The CSE believes that it is the only market with such a requirement. In conjunction with the elimination of the requirement, the Exchange is also proposing to remove Interpretation .01 of Rule 11.9(u) from its schedule of Exchange Rules that are subject to the CSE's minor rule violation plan, CSE Rule 8.15.

The Market Order Exposure Requirement was initially adopted as part of the Exchange's PDD program at a time when the industry minimum price variation was 1/8th of a dollar (\$0.125) resulting in the CSE's market order exposure rule applying when bid/ask spreads were 1/4th of a dollar (\$0.25).<sup>6</sup> Given the advent of decimal

<sup>5</sup> This provision applies only to public agency buy/sell market orders in securities other than Nasdaq national market securities. Over the years, the CSE has disseminated Regulatory Circulars describing the Exchange's interpretations of "unusual market conditions" or when "it is not in the best interests of the customer" to expose a market order. See CSE Regulatory Circulars 01-07, 99-03, 98-06, 97-07 and 96-04. These interpretations were incorporated into the text of the rule language through File No. SR-CSE-2003-09. Securities Exchange Act Release No. 48388 (August 21, 2003), 68 FR 51820 (August 28, 2003).

<sup>6</sup> While over time the minimum trading increment has decreased from 1/8th to subpenny increments, until recently the requirements of Rule 11.9(u) Interpretation .01 remained applicable only

pricing and today's narrow spreads, the CSE proposes to eliminate the rule. At the same time, PDDs' best execution responsibilities will continue to apply. This will provide the CSE's PDDs with more flexibility when handling customer market orders while also permitting them to operate on a level playing field with participants that trade ITS securities on other markets without being subject to similar requirements.

#### 2. Statutory Basis

The CSE believes that the proposed rule change is generally consistent with Section 6(b) of the Act.<sup>7</sup> The proposed rule change also furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> particularly, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, generally, in that it protects investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change 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

Written comments were neither solicited nor received.

when the price variation in the spread between the best national bid and offer is greater than or equal to 1/4 of a \$1 (\$0.25). See CSE Regulatory Circular 97-07; see also Securities Exchange Act Release Nos. 39720 (March 4, 1998), 63 FR 11942 (March 11, 1998) (SR-CSE-97-13); 43471 (October 20, 2000), 65 FR 64463 (October 27, 2000) (SR-CSE-00-08); and 43653 (December 1, 2000), 65 FR 77055 (December 8, 2000) (SR-CSE-00-08) (each of which references CSE Regulatory Circular 97-07 for further discussion of CSE's Market Order Exposure Requirement). Through SR-CSE-2003-09, the Exchange modified its Market Order Exposure Requirement by reducing the exposure period from 15 seconds to 5 seconds and imposing the rule based on the size of the market order received by the CSE PDDs. Specifically, the CSE introduced a three-tiered application of the rule to require PDDs to: (1) expose for 5 seconds or execute immediately at an improved price market orders of 1000 shares or less received when the NBBO is more than 5 cents (\$0.05) wide; (2) expose for 5 seconds or execute immediately at an improved price market orders with share size between 1001 and 5000 shares received when the NBBO is more than 10 cents (\$0.10) wide; and (3) expose for 5 seconds or execute immediately at an improved price market orders with size greater than 5001 shares when the NBBO is more than 15 cents (\$0.15) wide. File No. SR-CSE-2003-09, note 4 *supra*.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR-CSE-2003-10 and should be submitted by October 10, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 03-23949 Filed 9-18-03; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>9</sup> 17 CFR 200.30-3(a)(12).



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48490; File No. SR-Phlx-2003-64]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Program to Deploy the Options Floor Broker Management System

September 12, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on September 12, 2003, the Philadelphia Stock Exchange, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. The Exchange has designated the proposed rule change as constituting a “non-controversial” rule change under Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and paragraph (f)(6) of Rule 19b-4 under the Act,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission.<sup>5</sup> 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 Phlx proposes to extend its pilot program pertaining to the Options Floor Broker Management System (the “System”) until November 14, 2003.<sup>6</sup>

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>5</sup> The Exchange has requested that the Commission waive both the five-day pre-filing notification requirement and the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> On July 31, 2003, the Exchange filed a proposed rule change to implement a pilot program to deploy the Exchange’s new System. The proposed rule change was noticed, and accelerated approval was granted thereto, on July 31, 2003. The pilot was scheduled to expire on August 29, 2003. See Securities Exchange Act Release No. 48266 (July 31, 2003), 68 FR 152 (August 7, 2003) (SR-Phlx-2003-56). On August 29, the Commission extended the pilot. The pilot is currently scheduled to expire on September 12, 2003. See Securities Exchange Act Release No. 48425 (August 29, 2003), FR 68 53210 (September 9, 2003) (SR-Phlx-2003-60). The Exchange has also filed for permanent approval of the proposed rules. See Securities Exchange Act Release No. 48265 (July 31, 2003), 68 FR 47137 (August 7, 2003) (SR-Phlx-2003-40). The Exchange acknowledges that SR-Phlx-2003-40 and Amendment No. 1 thereto are subject to public

The System is a new component of the Exchange’s Automated Options Market (AUTOM) and Automatic Execution (AUTO-X) System.<sup>7</sup>

The text of the proposal rule change is set forth below. New text is in italics; deletions are in brackets.

\* \* \* \* \*

#### Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X)

Rule 1080. (a)-(j) No change.

Commentary:

.01—.05 No change.

.06 Options Floor Broker Management System. The Options Floor Broker Management System is a component of AUTOM designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. The Options Floor Broker Management System also is designed to establish an electronic audit trail for options orders represented and executed by Floor Brokers on the Exchange, such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. The Exchange will begin deployment of the Options Floor Broker Management System on July 31, 2003, with floor-wide deployment to be completed not later than [September 12] *November 14, 2003.*

\* \* \* \* \*

#### 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 Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements

comment, which may result in amendments to the proposed rules.

<sup>7</sup> AUTOM is the Exchange’s electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM’s automatic execution feature, AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. See Exchange Rule 1080.

may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to extend the effectiveness of the rules governing the System beyond the current effective date of September 12, 2003,<sup>8</sup> in order to continue to have rules in place concerning the System and to ensure that Floor Brokers using the System during the continuing deployment will not be in violation of current Exchange rules regarding ticket marking requirements.

The System is designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. Floor Brokers or their employees access the System through an electronic Exchange-provided handheld device on which they have the ability to enter the required information as set forth in Phlx Rule 1063(e), either from their respective posts on the options trading floor or in the trading crowd. The System will eventually replace the Exchange’s current Floor Broker Order Entry System (“FBOE”),<sup>9</sup> as part of a roll-out of the new System floor-wide.

All of the rules pertaining to the System adopted in July and effective through September 12<sup>10</sup> are proposed to be extended until November 14, 2003, including: Phlx Rules 1014(g), 1015, 1051, 1063, 1064, and 1080.06, as well as Option Floor Procedure Advices (“Advice”) A-11, B-6, B-8, C-2, C-3, F-1, F-2, and F-4. In addition to extending the effective date of the rules, this proposal also amends Phlx Rule 1080, Commentary .06 to state that the

<sup>8</sup> Telephone conversation between Rick Rudolph, Director and Counsel, Phlx, and Jennifer Colihan, Special Counsel, Division of Market Regulation (“Division”), Commission on September 12, 2003. During this conversation, the Exchange clarified the current effective date of the pilot.

<sup>9</sup> See Securities Exchange Act Release No. 41524 (June 14, 1999), 64 FR 33127 (June 21, 1999) (SR-Phlx-99-11). The FBOE, a component of AUTOM, currently provides a means for (but does not require) Floor Brokers to route eligible orders to the specialist’s post, consistent with the order delivery criteria of the AUTOM System set forth in Exchange Rule 1080(b). The new System would include the same functionality as the FBOE, in addition to providing an electronic audit trail for non-electronic orders received by Floor Brokers by way of the entry of the required information in proposed Rule 1063(e).

<sup>10</sup> See note 6, *supra*.

Exchange will complete deployment of the System by November 14, 2003.<sup>11</sup>

The Exchange believes that the System will enable Floor Brokers to handle orders they represent more efficiently, and will further enable the Exchange to comply with the audit trail requirement for non-electronic orders required under the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions.<sup>12</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, by providing a System that enables Floor Brokers to handle orders they represent more efficiently, while enabling the Exchange to comply with the requirement in the Order to provide an electronic audit trail for non-electronic orders entered on the Exchange.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule 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 either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and

(iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of the filing, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission believes that it is consistent with the protection of investors and the public interest to waive the five-day pre-filing notice and 30-day operative date to allow the System and rules to continue on a pilot basis without interruption until November 14, 2003.<sup>17</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2003-64 and should be submitted by October 10, 2003.

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03-23950 Filed 9-18-03; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Economic Injury Disaster #9W74]

#### State of Montana; (Amendment #1)

The above numbered declaration is hereby amended to include Beaverhead, Granite, Park, Ravalli, Stillwater and Sweet Grass Counties in the State of Montana as an economic injury disaster area due to the effects of the forest fires that began on July 23, 2003, and continue to burn.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Carbon, Deer Lodge, Gallatin, Golden Valley, Madison, Silver Bow, Wheatland and Yellowstone Counties in the State of Montana; Park County in the State of Wyoming; and Clark, Fremont, Idaho and Lemhi Counties in the State of Idaho may be filed until the specified date at the previously designated location.

The number assigned for economic injury is 9W9000 for Wyoming.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is May 26, 2004.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: September 11, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03-23977 Filed 9-18-03; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P016]

#### State of New Hampshire

As a result of the President's major disaster declaration for Public Assistance on September 12, 2003 the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Cheshire and Sullivan Counties in the State of New Hampshire constitute a

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> Telephone conversation between Rick Rudolph, Director and Counsel, Phlx, and Jennifer Colihan, Special Counsel, Division, Commission on September 12, 2003. During this conversation, the Exchange clarified the current effective date of the pilot, the date for the proposed extension of the pilot, and the date on which deployment of the system will be completed.

<sup>12</sup> See Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3-10282.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

disaster area due to damages caused by severe storms and flooding occurring on July 21, 2003 and continuing through August 18, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 12, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations Without Credit Available Elsewhere .....	2.953
Non-Profit Organizations With Credit Available Elsewhere ...	5.500

The number assigned to this disaster for physical damage is P01611.

(Catalog of Federal Domestic Assistance Program Nos. 59008).

Dated: September 15, 2003.

**Herbert L. Mitchell,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-23978 Filed 9-18-03; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3534]**

**State of Ohio; (Amendment #4)**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective September 5, 2003, the above numbered declaration is hereby amended to include Richland County as a disaster area due to damages caused by tornadoes, flooding, severe storms and high winds occurring on July 21, 2003 and continuing through August 25, 2003.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Crawford, Huron, Knox and Morrow in the State of Ohio may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is September 30, 2003, and for economic injury the deadline is May 3, 2004.

Dated: September 12, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

**Cheri L. Cannon,**  
*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 03-23976 Filed 9-18-03; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #P015]**

**State of Vermont**

As a result of the President's major disaster declaration for Public Assistance on September 12, 2003 the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Bennington, Orange, Windham and Windsor Counties in the State of Vermont constitute a disaster area due to damages caused by severe storms and flooding occurring on July 21, 2003 and continuing through August 18, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 12, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Non-profit Organizations Without Credit Available Elsewhere .....	2.953
Non-profit Organizations With Credit Available Elsewhere ...	5.500

The number assigned to this disaster for physical damage is P01511.

(Catalog of Federal Domestic Assistance Program Nos. 59008).

Dated: September 15, 2003.

**Herbert L. Mitchell,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-23979 Filed 9-18-03; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**Revocation of License of Small Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Northern District of Georgia dated May

19, 2003, the United States Small Business Administration hereby revokes the license of Renaissance Capital Corporation, a Georgia Corporation, to function as a small business investment company under the Small Business Investment Company License No. 04/04-5236 issued to Renaissance Capital Corporation and said license is hereby declared null and void as of September 5, 2003.

Dated: September 12, 2003.

Small Business Administration.

**Jeffrey D. Pierson,**  
*Associate Administrator for Investment.*

[FR Doc. 03-23980 Filed 9-18-03; 8:45 am]

**BILLING CODE 8025-01-P**

**DEPARTMENT OF STATE**

**[Public Notice 4496]**

**Culturally Significant Objects Imported for Exhibition; Determinations: "Christoffer Wilhelm Eckersberg (1783-1853)"**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition, "Christoffer Wilhelm Eckersberg (1783-1853)," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about November 23, 2003, to on or about February 29, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619-5997, and the address is United States Department of State, SA-44, Room 700, 301 4th

Street, SW., Washington, DC 20547–0001.

Dated: September 15, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Exchanges, Department of State.*

[FR Doc. 03–23955 Filed 9–18–03; 8:45 am]

BILLING CODE 4710–08–P

## DEPARTMENT OF STATE

[Public Notice 4494]

### **Culturally Significant Objects Imported for Exhibition; Determinations: “The Etruscans: An Ancient Culture Revealed”**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition “The Etruscans: An Ancient Culture Revealed,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at Fernbank Museum of Natural History, Atlanta, GA from on or about October 4, 2003 to on or about January 4, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619–6981). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 12, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 03–23958 Filed 9–18–03; 8:45 am]

BILLING CODE 4710–08–P

## DEPARTMENT OF STATE

[Public Notice 4497]

### **Culturally Significant Objects Imported for Exhibition; Determinations: “Schoenberg, Kandinsky, and the Blue Rider”**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition, “Schoenberg, Kandinsky, and the Blue Rider,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Jewish Museum, New York, New York, from on or about October 24, 2003, to on or about February 12, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: September 15, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Exchanges, Department of State.*

[FR Doc. 03–23954 Filed 9–18–03; 8:45 am]

BILLING CODE 4710–08–P

## DEPARTMENT OF STATE

[Public Notice 4495]

### **Culturally Significant Objects Imported for Exhibition; Determinations: “The Triumph of French Painting: 17th Century Masterpieces from the Museums of FRAME”**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition “The Triumph of French Painting: 17th Century Masterpieces from the Museums of FRAME,” imported from abroad for temporary exhibition within the United States, is of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at the Portland Art Museum, Portland, OR from on or about October 11, 2003 to on or about January 4, 2004 and the Birmingham Museum of Art, Birmingham, AL from on or about January 25, 2004 to on or about April 11, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619–6981). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 12, 2003.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 03–23956 Filed 9–18–03; 8:45 am]

BILLING CODE 4710–08–P

**DEPARTMENT OF STATE****[Public Notice 4493]****Bureau of Nonproliferation; Imposition of Missile Proliferation Sanctions Against a Chinese Entity****AGENCY:** Department of State.**ACTION:** Notice.

**SUMMARY:** A determination has been made that a Chinese entity has engaged in missile technology proliferation activities that require imposition of sanctions pursuant to the Arms Export Control Act, as amended, and the Export Administration Act of 1979, as amended (as carried out under Executive Order 13222 of August 17, 2001).

**EFFECTIVE DATE:** September 19, 2003.**FOR FURTHER INFORMATION CONTACT:**

Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State (202-647-1142).

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 73(a)(1) of the Arms Export Control Act (22 U.S.C. 2797b(a)(1)); Section 11B(b)(1) of the Export Administration Act of 1979 (50 U.S.C. app. 2401b(b)(1)), as carried out under Executive Order 13222 of August 17, 2001 (hereinafter cited as the "Export Administration Act of 1979"); and Executive Order 12851 of June 11, 1993; a determination was made on August 29, 2003, that the following foreign person has engaged in missile technology proliferation activities that require the imposition of the sanctions described in Section 73(a)(2)(A) and (C) of the Arms Export Control Act (22 U.S.C. 2797b(a)(2)(A) and (C)) and Section 11B(b)(1)(B)(i) and (iii) of the Export Administration Act of 1979 (50 U.S.C. app. 2410b(b)(1)(B)(i) and (iii)) on the following entity and its sub-units and successors: China North Industries Corporation.

Accordingly, the following sanctions are imposed on this entity:

(A) New individual licenses for exports to the entity described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Export Administration Act of 1979 will be denied for two years;

(B) New licenses for export to the entity described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Arms Export Control Act will be denied for two years;

(C) No new United States Government contracts relating to MTCR Annex-controlled equipment or technology involving the entity described above will be entered into for two years; and

(D) The importation into the U.S. of products produced by the entity described above is prohibited for a period of two years.

With respect to items controlled pursuant to the Export Administration Act of 1979, the export sanction only applies to exports made pursuant to individual export licenses.

Additionally, because China is a country with a non-market economy that is not a former member of the Warsaw Pact (as referenced in the definition of "person" in section 74(a)(8)(B) of the Arms Export Control Act), the sanctions described in Section 73(a)(2)(A) and (C) of the Arms Export Control Act (22 U.S.C. 2797b(a)(2)(A) and (C)) are also applicable to all activities of the Chinese government relating to the development or production of any missile equipment or technology and all activities of the Chinese government affecting the development or production of electronics, space systems or equipment, and military aircraft.

However, a further determination was made on August 29, 2003, pursuant to section 73(e) of the Arms Export Control Act (22 U.S.C. 2797b(e)), that it is essential to the national security of the United States to waive for a period of one year from the date of publication of this notice the import sanction described in Section 73(a)(2)(C) of the Arms Export Control Act (22 U.S.C. 2797b(a)(2)(C)) to the extent that this sanction applies to activities described in section 74(a)(8)(B) of the Arms Export Control Act (22 U.S.C. 2797c(a)(8)(B))—*i.e.*, activities of the Chinese government relating to the development or production of any missile equipment or technology and activities of the Chinese government affecting the development or production of electronics, space systems or equipment, and military aircraft.

Accordingly, the following sanctions are imposed on all activities of the Chinese government relating to the development or production of missile equipment or technology and all activities of the Chinese government affecting the development or production of electronics, space systems or equipment, and military aircraft:

(A) New licenses for export to the government activities described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Arms Export Control Act will be denied for two years; and

(B) No new United States Government contracts relating to MTCR Annex-controlled equipment or technology involving the government activities

described above will be entered into for two years.

These measures shall be implemented by the responsible agencies as provided in Executive Order 12851 of June 11, 1993.

Dated: September 12, 2003.

**Susan F. Burk,***Acting Assistant Secretary of State for Nonproliferation, Department of State.*

[FR Doc. 03-23957 Filed 9-18-03; 8:45 am]

**BILLING CODE 4710-25-P****DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Air Traffic Procedures Advisory Committee****AGENCY:** Federal Aviation Administration (FAA), DOT.

**SUMMARY:** The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

**DATES:** The meeting will be held from Monday, October 20, from 1 p.m. to 4:30 p.m., and Tuesday, October 21 to Thursday, October 23, from 9 a.m. to 4:30 p.m.

**ADDRESSES:** The meeting will be held at David J. Hurley, Air Traffic System Command Center, 13600 EDS Drive, Café Room B, Herndon, Virginia 20171.

**FOR FURTHER INFORMATION CONTACT:** Mr. John A. Clayborn, Executive Director, ATPAC, Air Traffic Planning and Procedures, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3725.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held Monday, October 20, from 1 p.m. to 4:30 p.m., and Tuesday, October 21, to Thursday, October 23, from 9 a.m. to 4:30 p.m.

The agenda for this meeting will cover: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.

4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than October 17, 2003. The next quarterly meeting of the FAA ATPAC is planned to be held from January 26–29, 2004, in Sacramento, California.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on September 12, 2003.

**John A. Clayborn,**

*Executive Director, Air Traffic Procedures Advisory Committee.*

[FR Doc. 03–23973 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Commercial Space Transportation Advisory Committee—Open Meeting

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

**ACTION:** Notice of Commercial Space Transportation Advisory Committee open meeting.

**SUMMARY:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, October 30, 2003, from 8 a.m. to 5 p.m. at the Federal Aviation Administration Headquarters Building, 800 Independence Avenue SW., Washington, DC, in the Bessie Coleman Conference Center, 2nd Floor. This will be the thirty-eighth meeting of the COMSTAC.

The proposed agenda for the meeting will include a briefing from members of the Columbia Accident Investigation Board focusing on the post-Columbia implications for all United States space sectors, updates on current commercial space transportation legislation, and an activities report from FAA's Associate Administrator for Commercial Space Transportation. Meetings of the

COMSTAC Working Groups (Technology and Innovation, Reusable Launch Vehicle, Risk Management, and Launch Operations and Support) will be held on Wednesday, October 29, 2003. For specific information concerning the times and locations of these meetings, contact the Contact Person listed below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

**FOR FURTHER INFORMATION CONTACT:**

Brenda Parker (AST–200), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue SW., Room 331, Washington, DC 20591, telephone (202) 385–4713; e-mail [brenda.parker@faa.dot.gov](mailto:brenda.parker@faa.dot.gov).

Issued in Washington, DC, September 11, 2003.

**Patricia G. Smith,**

*Associate Administrator for Commercial Space Transportation.*

[FR Doc. 03–23971 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Policy Statement No. ANM–2003–115–30]

#### Policy Statement on Side-Facing Seats on Transport Category Airplanes

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

**ACTION:** Notice of proposed policy; request for comments.

**SUMMARY:** The Federal Aviation Administration (FAA) announces the availability of proposed policy that clarifies certification policy on § 25.785(a), Amendment 25–64, for side-facing seats.

**DATES:** Send your comments on or before October 20, 2003.

**ADDRESSES:** Address your comments to the individual identified under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:**

Michael T. Thompson, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airframe and Cabin Safety Branch, ANM–115, 601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–1157; fax (425) 227–1100; e-mail: [michael.t.thompson@faa.gov](mailto:michael.t.thompson@faa.gov).

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The proposed policy is available on the Internet at the following address: <http://www.airweb.faa.gov/rgl>. If you do not have access to the Internet, you can obtain a copy of the policy by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The FAA invites your comments on this proposed policy. We will accept your comments, data, views, or arguments by letter, fax, or e-mail. Send your comments to the person indicated in **FOR FURTHER INFORMATION CONTACT**. Mark your comments, "Comments to Policy Statement No. ANM–2003–115–30." Use the following format when preparing your comments:

- Organize your comments issue-by-issue.
  - For each issue, state what specific change you are requesting to the proposed policy.
  - Include justification, reasons, or data for each change you are requesting.
- We also welcome comments in support of the proposed policy.

We will consider all communications received on or before the closing date for comments. We may change the proposed policy because of the comments received.

### Background

The proposed policy memorandum will provide Federal Aviation Administration (FAA) certification policy on the occupant protection requirements of § 25.785(a), Amendment 25–64, for side-facing seats. Specifically, it provides guidance used to establish the minimum acceptable testing and human injury criteria for obtaining special conditions for single occupant side-facing seats and an exemption for multiple occupant side-facing seats.

Issued in Renton, Washington, on September 8, 2003.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 03–23974 Filed 9–18–03; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2003–4)]

#### Quarterly Rail Cost Adjustment Factor

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Approval of rail cost adjustment factor.

**SUMMARY:** The Board has approved the fourth quarter 2003 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The fourth quarter 2003 RCAF (Unadjusted) is 1.017. The fourth quarter 2003 RCAF (Adjusted) is 0.515. The fourth quarter 2003 RCAF-5 is 0.490.

**EFFECTIVE DATE:** October 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mac Frampton, (202) 565-1541. Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā-To-Dā'' Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006, phone (202) 293-7776. [Assistance for the hearing impaired is available through FIRS: 1-800-877-8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: September 11, 2003.

By the Board, Chairman Nober.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 03-23742 Filed 9-18-03; 8:45 am]

**BILLING CODE 4915-00-P**

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## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

September 12, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before October 20, 2003 to be assured of consideration.

### Financial Management Service (FMS)

*OMB Number:* New collection.

*Form Number:* None.

*Type of Review:* New collection.

*Title:* Electronic Funds Transfer (EFT) Market Research Study.

*Description:* FMS/Treasury, Federal Reserve Bank of St. Louis and its contractor study of Federal benefit recipients to identify barriers to significant increasers is use of EFT for benefit payments.

*Respondents:* Individuals or households, Federal Government.

*Estimated Number of Respondents:* 2,515.

*Estimated Burden Hours Per*

*Respondent:* 3 hours and 29 minutes.

*Frequency of Response:* Quarterly.

*Estimated Total Reporting Burden:* 764 hours.

*Clearance Officer:* Juanita Holder, Financial Management Service, 3700 East West Highway, Room 135, PGP II, Hyattsville, MD 20782.

*OMB Reviewer:* Joseph F. Lackey, Jr., (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Treasury PRA Clearance Officer.*

[FR Doc. 03-23945 Filed 9-18-03; 8:45 am]

**BILLING CODE 4810-35-P**

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## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

September 9, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before October 20, 2003 to be assured of consideration.

### Bureau of the Public Debt (PD)

*OMB Number:* 1535-0048.

*Form Number:* PD F 385.

*Type of Review:* Extension.

*Title:* Certificate of Identity.

*Description:* The form is used to establish the identity of the owner of U.S. Savings Securities.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 177.

*Estimated Burden Hours Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden*

*Hours:* 30 hours.

*OMB Number:* 1535-0058.

*Form Number:* PD F 1646.

*Type of Review:* Extension.

*Title:* Disposition of United States Registered Securities and elated Checks for Nonadministered Estate.

*Description:* Used by person entitled to decedent's estate not being administered.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 625.

*Estimated Burden Hours Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden*

*Hours:* 313 hours.

*OMB Number:* 1535-0063.

*Form Number:* PD F 4239.

*Type of Review:* Extension.

*Title:* Request for Payment or Reissue of U.S. Savings Bonds Deposited in Safekeeping.

*Description:* Used to request reissue or payment of bonds in safekeeping when custody receipts are not available.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 500.

*Estimated Burden Hours Per*

*Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden*

*Hours:* 84 hours.

*OMB Number:* 1535-0100.

*Form Number:* PD F 4094.

*Type of Review:* Extension.

*Title:* Affidavit by Individual Surety.

*Description:* Affidavit from individual acting as surety for indemnification agreement for lost, stolen or destroyed securities.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 500.

*Estimated Burden Hours Per*

*Respondent:* 55 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden*

*Hours:* 460 hours.

*OMB Number:* 1535-0120.

*Form Number:* PD F 5366, PD F 5354 and PD F 5367.

*Type of Review:* Extension.

*Title:* FHA New Account Request, Transaction Request, and Transfer Request.



*Description:* Used to establish account, change information on account, and transfer ownership.

*Respondents:* Individuals or households, business of other for-profit.

*Estimated Number of Respondents:* 600.

*Estimated Burden Hours Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden Hours:* 102 hours.

*Clearance Officer:* Vicki S. Thorpe (304) 480-6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106-1328.

*OMB Reviewer:* Joseph F. Lackey, Jr. (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Treasury PRA Clearance Officer.*

[FR Doc. 03-23946 Filed 9-18-03; 8:45 am]

**BILLING CODE 4810-39-U**

**DEPARTMENT OF THE TREASURY**

**Submission for OMB Review;  
Comment Request**

September 12, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW, Washington, DC 20220.

**DATES:** Written comments should be received on or before October 20, 2003 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545-0054.

*Form Number:* IRS Form 1000.

*Type of Review:* Extension.

*Title:* Ownership Certificate.

*Description:* Form 1000 is used by citizens, resident individuals, fiduciaries, partnerships and nonresident partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

*Respondents:* Business or other for-profit, individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 1,500.

*Estimated Burden Hours Per Respondent/Recordkeeper:* 3 hours, 21 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting/*

*Recordkeeping Burden:* 5,040 hours.

*OMB Number:* 1545-0155.

*Form Number:* IRS Form 3468.

*Type of Review:* Extension.

*Title:* Investment Credit.

*Description:* Taxpayers are allowed a credit against their income tax for certain expenses they incur for their trades or businesses. Form 3468 is used to compute this investment tax credit. The information collected is used by the IRS to verify that the credit has been correctly computed.

*Respondents:* Business or other for-profit, individuals or households, not-for-profit institutions, farms.

*Estimated Number of Respondents/Recordkeepers:* 22,573.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

*Recordkeeping—12 hr., 54 min.*

*Learning about the law or the form—3 hr., 34 min.*

*Preparing and sending the form to the IRS—3 hr., 57 min.*

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 461,167 hours.

*OMB Number:* 1545-0231.

*Form Number:* IRS Form 6478.

*Type of Review:* Extension.

*Title:* Credit for Alcohol Used as Fuel.

*Description:* Internal Revenue Code (IRC) section 38(b)(3) allows a nonrefundable income tax credit for businesses that sell or use alcohol. Small ethanol producers also receive a nonrefundable credit for production of qualified ethanol. Form 6478 is used to figure the credits.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents/Recordkeepers:* 1,594.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

*Recordkeeping—12 hr., 12 min.*

*Learning about the law or the form—18 min.*

*Preparing and sending the form to the IRS—30 min.*

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 20,722 hours.

*Clearance Officer:* Glenn Kirkland (202) 622-3428, Internal Revenue Service, Room 6411-03, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer:* Joseph F. Lackey, Jr. (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Mary A. Able,**

*Departmental Reports Management Officer.*

[FR Doc. 03-23947 Filed 9-18-03; 8:45 am]

**BILLING CODE 4830-01-P**



# Corrections

Federal Register

Vol. 68, No. 182

Friday, September 19, 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.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

[Docket No. 030725185-3207-02; I.D. 071403B]

RIN 0648-AR34

#### Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

##### Correction

In rule document 03-21858 beginning on page 51508 in the issue of Wednesday, August 27, 2003, make the following correction:

#### §223.07 [Corrected]

On page 51514, in the third column, in §223.07(a)(7)(B), in the first line, “\” should read “*Escape opening for offshore hooped hard TED.*”

[FR Doc. C3-21858 Filed 9-18-03; 8:45 am]

BILLING CODE 1505-01-D

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 136

[FRL-7529-7]

RIN 2040-AD71

#### Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Ambient Water

##### Correction

In rule document 03-18155 beginning on page 43272 in the issue of Monday, July 21, 2003 make the following corrections:

#### §136.3 [Corrected]

1. On page 43279, in §136.3(e), in the table, under the heading “Standard methods 18th, 19, 20th Ed.”, after the 11th entry, add the following: “9230C<sup>4</sup>”.

2. On page 43281, in the same section, in footnote 2, in the first line “???m” should read “μm”.

3. On the same page, in the same section, in footnote 13, in the second line, “βglucuronidase” should read “β-glucuronidase”.

4. On page 43282, in the same section, in the second column, in paragraph (b)(52), in the second line “Colilert-18”” should read “Colilert-18@”.

5. On page 43283, in the same section, in the table, under the heading “Parameter No./name”, in the third entry, “7 *Enterocci*” should read “7 *Enterococci*”.

6. On the same page, in the same section, in the same table, under the heading “Preservation<sup>2,3</sup>”, in the first through third entries “0.008%” should read “0.0008%”.

[FR Doc. C3-18155 Filed 9-18-03; 8:45 am]

BILLING CODE 1505-01-D



# Federal Register

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**Friday,  
September 19, 2003**

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**Part II**

## **Department of Housing and Urban Development**

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**Notice of Regulatory waiver Requests  
Granted for the First Quarter of Calendar  
Year 2003; Notice**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

[Docket No. FR-4854-N-01]

**Notice of Regulatory Waiver Requests  
Granted for the First Quarter of  
Calendar Year 2003**

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Public notice of the granting of regulatory waivers from January 1, 2003, through March 31, 2003.

**SUMMARY:** Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on January 1, 2003, and ending on March 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500; telephone (202) 708-3055 (this is not a toll-free number). Hearing-or speech-impaired persons may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

**SUPPLEMENTARY INFORMATION:** Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;
2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;
3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has

approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

- a. Identify the project, activity, or undertaking involved;
- b. Describe the nature of the provision waived, and the designation of the provision;
- c. Indicate the name and title of the person who granted the waiver request;
- d. Describe briefly the grounds for approval of the request; and
- e. State how additional information about a particular waiver-grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from January 1, 2003, through March 31, 2003. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in title 24 of the Code of Federal Regulations and that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver-grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred during April 1, 2003, through June 30, 2003.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: September 10, 2003.

**Alphonso Jackson,**  
*Deputy Secretary.*

**Listing of Waivers of Regulatory  
Requirements Granted by Offices of the  
Department of Housing and Urban  
Development January 1, 2003, Through  
March 31, 2003**

**Note to Reader:** More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

- I. Regulatory waivers granted by the Office of Community Planning and Development.
- II. Regulatory waivers granted by the Office of Housing.
- III. Regulatory waivers granted by the Office of Public and Indian Housing.
- IV. Regulatory waivers granted by the Office of Policy Development and Research.

**I. Regulatory Waivers Granted by the Office  
of Community Planning and Development**

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

- Regulations: 24 CFR 91.520(a).

*Project/Activity:* Dane County, Wisconsin, requested a waiver of the requirement that each grantee must submit a performance report to HUD within 90 days after the close of the grantee's program year.

*Nature of Requirement:* Section 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

*Granted By:* Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

*Date Granted:* March 17, 2003.

*Reason Waived:* It would be a hardship for county staff to complete the Consolidated Annual Performance and Evaluation Report (CAPER) without an additional staff member. The county is now in the process of hiring this person. The county is unable to submit an accurate and complete report on its 2002 program without the additional time. The CAPER provides local residents with information on the county's accomplishments during the year, and the report data goes into a national database used for various reporting purposes, including the annual report to Congress. While HUD is desirous of timely reports, it is also interested in ensuring that the information in CAPERs is complete and accurate. Dane County received an extension to May 31, 2003, to submit its 2002 CAPER to HUD.

*Contact:* Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-2565.

- Regulations: 24 CFR 92.2.

*Project/Activity:* The city of Baltimore, Maryland, requested a waiver of the definition of "single room occupancy" (SRO)

housing to permit it to provide HOME funds to rehabilitate and expand a transitional housing project.

*Nature of Requirement:* Section 92.2 states that newly constructed SRO units funded with HOME dollars must contain either food preparation or sanitary facilities, while rehabilitated SRO units require neither food preparation nor sanitary facilities to be located in the unit.

*Granted By:* Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

*Date Granted:* January 15, 2003.

*Reason Waived:* The Department determined that there was good cause to grant the waiver due to the physical limitations associated with the development of the project and the intent of Bright Hope House to provide additional handicapped accessible residential units. The project involves a three-story addition to the building as well as rehabilitation of the 8,200 square foot existing building. This addition will expand the building by 25 percent and create 10 new handicapped-accessible units and a three-story elevator. Sanitation and food preparation will remain communal.

*Contact:* Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-2565.

• *Regulations:* 24 CFR 92.101(e).

*Project/Activity:* Waukesha, Wisconsin County Consortium requested a waiver to extend its program qualifications period from three to five years.

*Nature of Requirement:* Section 92.101(e) states that a consortium's qualification as a unit of general local government continues for a period of three consecutive years. The rule further states that if a member urban county's three year Community Development Block Grant (CDBG) qualification cycle is not the same as the consortium, the consortium may elect a shorter qualification period than three years to synchronize with the urban county's qualification period.

*Granted By:* Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

*Date Granted:* January 17, 2003.

*Reason Waived:* The Department determined that there was good cause for granting the waiver. The waiver will allow Waukesha County to align its CDBG and HOME programs to better coordinate them.

*Contact:* Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-2565.

• *Regulations:* 24 CFR 92.212(b).

*Project/Activity:* The city of Seattle, Washington, requested a waiver of the restrictions on pre-award costs to permit the city to incur HOME administration and planning costs prior to the submission of the city's Consolidated Plan.

*Nature of Requirement:* Section 92.212(b) states that the submission and approval of a Consolidated Plan is a requirement for receiving a HOME allocation. Paragraph (b)

of that section further states that eligible costs for the planning and administration of the HOME program may be incurred as of the beginning of a participating jurisdiction's program year, or the date the consolidated plan describing the HOME allocation to which the costs will be charged is received by HUD, whichever is later.

*Granted By:* Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

*Date Granted:* February 5, 2003.

*Reason Waived:* The Department determined that there was good cause to grant the waiver. Faced with a \$60 million deficit, the new mayoral administration of the city of Seattle conducted an extensive review of the city's budget that resulted in extensive changes to the way in which funds are allocated within city programs and departments. The budget crisis and uncertainty in budget decisions delayed the completion of the city's Consolidated Plan and submission to HUD. The delay in submitting the Consolidated Plan precludes the city's ability to incur HOME administrative and planning costs and threatens to impede the management of ongoing HOME-eligible activities. The city proposed a reasonable timeframe for submitting the Consolidated Plan to HUD. The waiver will permit the city to incur HOME-eligible planning and administrative expenses effective January 1, 2003, provided the city submits its FY 2003 Consolidated Plan by the established February 18, 2003, date.

*Contact:* Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-2565.

• *Regulations:* 24 CFR 92.214(a)(7) & 92.502(d).

*Project/Activity:* The Idaho Housing and Finance Association (IHFA), Caldwell, Idaho, requested a waiver of the restrictions on providing additional HOME assistance to a project more than one year after the completion of that project. This waiver will benefit the Marble Front complex in Caldwell, Idaho.

*Nature of Requirement:* The regulation states that providing additional HOME assistance to a project during the period of affordability is prohibited, except that additional HOME funds may be committed up to one year after project completion as long as the HOME funds committed to the project do not exceed the maximum per unit subsidy.

*Granted By:* Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

*Date Granted:* March 27, 2003.

*Reason Waived:* The Department determined that there was good cause to grant the waiver. The waiver will allow IHFA to invest additional HOME funds, not to exceed the maximum per unit subsidy, in the Marble Front property. This will bring the property into compliance with HOME property standards and tenant income requirements, and meet the Uniform Federal Accessibility Standards as they apply to

Section 504 of the Rehabilitation Act of 1973 (Section 504). The waiver will also ensure the affordability of the project. HUD required IHFA to review and revise its current Section 504 monitoring procedures to ensure that all future projects meet these fair housing and accessibility requirements.

*Contact:* Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-2565.

• *Regulations:* 24 CFR 570.208(a)(3).

*Project/Activity:* The city of Decatur, Illinois, requested a waiver of the regulation which generally requires that all single unit housing structures on property acquired with CDBG funds must be occupied by low- and moderate-income households. The city requested this waiver to allow it to convey property it acquired, in part, with CDBG funds to the Decatur Housing Authority (DHA) to be included as part of the revitalization of the Near North area as a mixed-income community.

*Nature of Requirement:* Section 570.208(a)(3) requires that all single unit housing structures on property acquired with CDBG funds must be occupied by low- and moderate-income households.

*Granted By:* Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

*Date Granted:* March 27, 2003.

*Reason Waived:* The methodology used to determine compliance with section 570.208(a)(3) is not required by statute. Therefore, HUD may consider a waiver to permit the use of another methodology to meet the housing national objective. Based on the information provided, the city has demonstrated good cause for this waiver. Although CDBG funds represent 14 percent of the total cost, the city stated that 35 percent of the single-family units would be for low- and moderate-income households. This will allow the DHA to further the revitalization of the Near North area as a mixed-income community with 35 percent of the single family housing units and at least 51 percent of the rental units be occupied by low- and moderate-income households upon completion of the project. The city must notify HUD if any changes occur in either the financing, number of units in the project, and/or those occupied by low- and moderate-income household, since any changes could nullify this waiver. Finally, the regulation at § 570.208(a)(3) requires that rental housing occupied by low- and moderate-income households must be at affordable rents.

*Contact:* Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-2565.

• *Regulations:* 24 CFR 574.330(a).

*Project/Activity:* The Los Angeles Housing Authority requested a waiver of the 21 week limit on short-term rent, mortgage, and utility assistance for 2,159 individuals reaching their time limitation, so that they may be able to continue to receive such assistance.

*Nature of Requirement:* Section 574.330(a)(1) states that rent, mortgage, and

utilities payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided to such an individual for these costs accruing over a period of more than 21 weeks in any 52-week period. Section 574.330 (a)(2) states that HUD may waive, as it determines appropriate, the limitations of paragraph (a)(1) and will favorably consider a waiver based on the good faith effort of a project sponsor to provide housing under subparagraph (c).

*Granted By:* Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

*Date Granted:* January 14, 2003.

*Reason Waived:* The Department reviewed the city's documented attachment and determined that the city has satisfied the requirements of the 21-week limitation for the individuals. Further, the city's housing specialists have made a good faith effort to secure permanent housing for the client's level of need, but such housing is not available in the current living environment.

*Contact:* Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-2565.

## II. Regulatory Waivers Granted by the Office of Housing

For further information about the following waivers actions, please see the name of the contact person who immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 200.54(a).

*Project/Activity:* Quail Run Apartments, Peoria, AZ; Project Number: 123-35370.

*Nature of Requirement:* Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and Federal Housing Administration (FHA) insured proceeds for the subject property.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 31, 2003.

*Reason Waived:* The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased the Government National Mortgage Association (GNMA) mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Phoenix Multifamily Program Center to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

*Contact:* Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-1142.

- *Regulation:* 24 CFR 200.54(a).

*Project/Activity:* H.J. Heinz Lofts, Pittsburgh, Allegheny County Project Number: 033-35246.

*Nature of Requirement:* Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money

escrow funds and FHA-insured proceeds for the subject property.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for 11 or 12 months, resulting in payment of extension fees to the investors who purchased the GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Philadelphia Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

*Contact:* Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-1142.

- *Regulation:* 24 CFR 200.54(a).

*Project/Activity:* St. Edmunds Meadows, Chicago, IL; Project Number: 071-35719.

*Nature of Requirement:* Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 13, 2003.

*Reason Waived:* The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for at least 8-10 months after initial endorsement, resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Chicago Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

*Contact:* Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-1142.

- *Regulation:* 24 CFR 200.54(a).

*Project/Activity:* Harold Washington Unity Cooperative, Chicago, IL; Project Number: 071-32140.

*Nature of Requirement:* Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA-insured proceeds for the subject property.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 13, 2003.

*Reason Waived:* The regulation was waived since the front money escrow is so large, the insured proceeds would not be disbursed for at least 6-8 months after initial endorsement, resulting in payment of extension fees to the investors who purchased GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) permitted the Chicago

Multifamily Hub to approve a *pro-rata* disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

*Contact:* Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-1142.

- *Regulation:* 24 CFR 203.402(j).

*Project/Activity:* Single-family claims submitted on dwellings in Planned Unit Developments (PUDs).

*Nature of Requirement:* 24 CFR 203.402(j) provides that mortgage lenders may include in their claim, any charges for the administration, operation, maintenance, and repair of community-owned property paid by the mortgage lender for the purpose of discharging an obligation arising out of a covenant filed for record and approved by the Secretary prior to the issuance of the mortgage, and charges for certain repairs to the mortgaged property resulting from damage or neglect.

*Granted by:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 27, 2003.

*Reason Waived:* On January 22, 2003, in HUD Mortgage Letter 2003-02, the Department eliminated FHA approval of a PUD as a precondition for placing a FHA mortgage on a dwelling located in the development. This prior approval constituted the approval by the Secretary prior to the issuance of the mortgage, referred to in 24 CFR 203.402(j). The waiver was granted to allow mortgage lenders submitting mortgage insurance claims to include expenditures on assessments and liens on the mortgaged property as the result of charges related to the care of community-owned property. Otherwise, lenders would be denied such claims, which would be inconsistent with HUD's insurance payment policy and discourage lender participation in FHA programs.

*Contact:* Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-2121.

- *Regulation:* 24 CFR 291.210(a).

*Project/Activity:* Teacher-Next-Door Sales Program, Nationwide.

*Nature of Requirement:* 24 CFR 291.210(a) permits direct sales at deep discounts off the list price of properties sold without mortgage insurance to governmental entities and private nonprofit organizations for use in HUD and local housing or homeless programs.

*Granted by:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 6, 2003.

*Reason Waived:* The Teacher-Next-Door Initiative gives teachers the opportunity to live and work in communities where they are most needed. The integration of teachers, who are role models and mentors, into a community enhances the community's quality of life. To date the Teacher-Next-Door

Initiative has enabled HUD to dispose of approximately 2,500 properties from its inventory resulting in homeownership for an equivalent number of qualified buyers and increasing owner-occupant single-family households in revitalization areas. This waiver will continue to make properties available to teachers with discounts.

Contact: Joseph McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone: (202) 708-1672.

- Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 491.600):

FHA No.	Project name	State
08435189	Branson Manor .....	MO
02335206	Chateau Apartments ....	MA
10135316	Cottonwood Apartments.	CO
07335381	Crossings I .....	IN
06435206	Cypress Garden Apartments.	LA
05335366	Duplin County Housing	NC
06235566	Elmwood Apartments ..	AL
04335275	Greenfield Meadows ....	OH
08335267	Lakeland Wesley Village I.	KY
01235452	Morrisania IV .....	NY
04235301	Newman Highland Square.	OH
11735191	Rolling Green Apartments.	OK
04235331	Shaker Boulevard Gardens.	OH
08335338	Vernon Manor Apartments.	KY
04235266	Westview Apartments ..	OH

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring and that the properties will not default on their FHA-insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 16, 2003.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Norman Dailey, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, SW., Washington, DC 20410-8000; telephone: (202) 708-3856.

- Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 491.600):

FHA No.	Project name	State
01735184	Abbott Towers/Enterprise Apts..	CT
04535148	Adams Landing .....	WV
01257144	Albert Goodman Plaza	NY
07235081	Bissel Apartments .....	IL
01257141	Bruckner Houses .....	NY
04235342	Bucyrus Plaza .....	OH
07335375	Country Apts. (Brownstown Apts.).	IN
08535277	Flat River Apartments ..	MO
01257088	Greene Park Arms .....	NY
01235410	John Crawford Sr. Citizen Housing.	NY
04235365	Lake Avenue Commons.	OH
06235304	Medical Center Terrace	AL
01257158	Monterey Gardens .....	NY
11535194	Nolan Terrace .....	TX
08335321	Osage Estates .....	KY
03235022	Prestwyck Apts. ....	DE
01257148	The Gateways (Greenport Apts.).	NY
02335253	Villa Nueva Vista .....	MA
04235313	William E. Fowler, Sr. Apts. II.	OH
01335097	Woodsboro Apartments	NY

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring and that the properties will not default on their FHA-insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 19, 2003.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Norman Dailey, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, SW., Washington, DC 20410-8000; telephone: (202) 708-3856.

- Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 491.600):

FHA No.	Project name	State
04644122	Alms Hill Apartments ...	OH
03335087	Cider Mill Apartments ..	PA
03435185	Cobbs Creek NSA .....	PA
06235333	Crossgates Apartments	AL
06735253	Crystalwood Apartments.	FL
06535574	Earnestine McNease Apartments.	MS
05411049	Forest Villa Apartments	SC
06535575	Goodhaven Manor Apartments.	MS
04335176	Hillside Apartments .....	OH
01257211	Kingsbridge Decatur Phase 1.	NY

FHA No.	Project name	State
05635132	Miramar Housing .....	PR
05435466	The Carolina .....	SC

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring and that the properties will not default on their FHA-insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 20, 2003.

Reason Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Norman Dailey, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, SW., Washington, DC 20410-8000; telephone: (202) 708-3856.

- Regulation: 24 CFR 883.606(b).

Project/Activity: Pennsylvania Housing Finance Agency.

Nature of Requirement: Section 883.606(b) prohibits the collection of an override and a Housing Assistance Payments Contract administration fee in connection with the same project.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 28, 2003.

Reason Waived: HUD requested the Pennsylvania Housing Authority's assistance in responding to a finding made by the General Accounting Office that HUD, in approving bond refunding proposals submitted by state housing finance agencies in the early 1990s, did not enforce a regulatory prohibition of collection of both contract administration fees and bond yield override in connection with the same project (24 CFR part 883, section 883.606(b)) and neglected to issue formal waivers at the time of approval. HUD proposed to correct this oversight by providing an opportunity to agencies in violation of this rule to request and justify formal waivers. The Pennsylvania Housing Authority submitted an application dated January 31, 2001, in connection with its refunding in 1990 of three series of bonds issued in 1982 which financed construction of 32 section 8 assisted projects which received a Financing Adjustment Factor. HUD finds that the uses of the revenues are consistent with the objectives of the McKinney Act bond refunding program and would be impractical to upset the security arrangements that were relied upon by rating agencies, bond underwriters, and investors in the marketing of bonds. Therefore, it would be unreasonable to enforce the regulation retroactively.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of

Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410-8000; telephone: (202) 708-3730.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Burnside Station, Portland, OR; Project Number: 126-HD031/OR16-Q011-002.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Holiday Heights VOA Living Center, Bradenton, FL; Project Number: 067-HD079/FL29-Q001-004.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* 128th Place, St. Petersburg, FL; Project Number: 067-HD085/FL29-Q011-005.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Montbello VOA Elderly Housing, Denver, CO; Project Number: 101-EE049/CO99-S001-001.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The costs of construction and Davis Bacon wages have increased considerably. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* La Playa Apartments, San Francisco, CA; Project Number: 121-HD065/CA39-Q981-002.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* ASI-Jackson County, Medford, OR; Project Number: 126-HD028/OR16-Q991-002.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* St. Peter Claver Courts, Robbins, IL; Project Number: 071-EE152/IL06-S991-011.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 15, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Shenango Presbyterian Senior Housing, McKeesport, PA; Project Number: 033-EE084/PA28-S961-011.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Yakubian Homes, Alton, IL; Project Number: 072-HD110/IL06-Q991-007.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* The Center on Halsted, Chicago, IL; Project Number: 071-HD122/IL06-Q011-002.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant

Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Heritage Field I, Decatur, IL; Project Number: 072-HD116/IL06-Q011-003.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* McMillon Adventist Estates, Birmingham, AL; Project Number: 062-EE052/AL09-S011-005.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 14, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* South Daytona Beach Good Samaritan Housing, Inc., South Daytona Beach, FL; Project Number: 067-EE111/FL29-S001-011.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 14, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* International Hotel Senior Housing, San Francisco, CA; Project Number: 121-EE059/CA39-S941-011.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 20, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Construction costs for the project are higher than typical for a modestly designed project because the design is a combination of historic preservation issues and urban design objectives of the city and county of San Francisco.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Simpson Mid-Town Apartments, Philadelphia, PA; Project Number 034-EE107/PA26-S001-007.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 24, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Nashville Supportive Housing, Nashville-Davidson, TN; Project Number: 086-HD016/TN43-Q971-001.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 25, 2003.

*Reason Waived:* The sponsor will contribute \$11,000 toward the shortfall. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d).

*Project/Activity:* Villa Seton, Inc., Port St. Lucie, FL; Project Number: 067-EE107/FL29-S001-005.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 31, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

*Project/Activity:* Fort Collins Volunteers of America (VOA) Elderly Housing, Fort Collins, CO; Project Number: 101-EE045/CO99-S991-001.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. The project experienced delays due to the need to redesign the project as a result of significant increases in the costs of construction and Davis Bacon wages.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

*Project/Activity:* Oak Springs Villas, Austin, TX; Project Number: 115-EE059/TX59-S001-003.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Delays were due to the



need to have the land surveyed, platted, and rezoned.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

*Project/Activity:* Shenango Presbyterian Senior Housing, McKeesport, PA; Project Number: 033-EE084/PA28-S961-001.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. The sponsor needed additional time to secure another site and obtain additional funds from outside sources.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

*Project/Activity:* New Life Homes II, Albuquerque, NM; Project Number: 116-HD015/NM16-Q001-001.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 4, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Additional time was needed for HUD to process the firm commitment, and the sponsor to prepare and submit the closing package.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

*Project/Activity:* Tremont Terrace, Fort Worth, TX; Project Number: 113-HD018/TX21-Q001-001.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 14, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. Additional time was needed to identify additional funds and to make design changes.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

*Project/Activity:* Albuquerque VOA Elderly Housing, Project Number: 116-EE022/NM16-S001-003.

*Nature of Requirement:* Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 20, 2003.

*Reason Waived:* The sponsor exhausted all efforts to obtain additional funding. The project is economically designed and is comparable in cost to similar projects developed in the area. HUD needed additional time to issue the Firm Commitment and to review the initial closing documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Las Golondrinas, San Jose, CA; Project Number: 121-EE138/CA39-S001-009.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* Additional time was needed for the City Council to approve the secondary financing commitment by the city of San Jose.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Venable Apartments at Stadium Place, Baltimore, MD; Project Number: 052-EE036/MD06-S001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* Additional time was needed to review the secondary financing documents and for the project to reach initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* AHEPA 410, Incorporated, Daytona Beach, FL; Project Number: 067-EE110/FL29-S001-009.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* HUD needed additional time to process the revised Firm Commitment application and for the project to reach initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* AHEPA 23-III Apartments, Montgomery, AL; Project Number: 062-EE046/AL09-S001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The project experienced delays while the sponsor attempted to obtain secondary financing in order to meet funding shortfalls.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street,

SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* South Daytona Good Samaritan Housing, South Daytona Beach, FL; Project Number: 067-EE111/FL29-S001-011.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* Delays were experienced by the project while the sponsor attempted to obtain secondary financing and to redesign the project.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Ottawa River Estates, Toledo, OH; Project Number: 042-HD072/OH12-Q971-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The sponsor is currently tied up in litigation concerning the sale of the land designated for the project.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Melvin T. Walls Manor, Ypsilanti, MI; Project Number: 044-EE070/MI23-S000-003.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 7, 2003.

*Reason Waived:* The owner needed additional time to obtain funds from other sources and to redesign the project.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Concerned Care, Incorporated, Kansas City, MO; Project Number: 084-HD033/MO16-Q001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* The owner needed additional time to complete site negotiations, and for the city to review and approve the final plat process. The engineers needed additional time to complete the land disturbance plan and drainage study, which delayed the architect's completion of the drawings.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Delran Consumer Home, Delran, NJ; Project Number: 035-HD046/NJ39-Q001-015.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 20, 2003.

*Reason Waived:* Delays were incurred by the project while the sponsor obtained control of another site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Holiday Heights VOA Living Center, Bradenton, FL; Project Number: 067-HD079/FL29-Q001-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* Delays were experienced by the project while the sponsor attempted to acquire secondary financing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* AHEPA 489 Apartments, New Port Richey, FL; Project Number: 067-EE109/FL29-S001-007.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund

reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* Delays were experienced by the project while the owner prepared the closing documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Meadow Park, Sarasota, FL; Project Number: 067-EE106/FL29-S001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* Additional time was needed for the owner to revise the firm commitment application and for HUD to reprocess the documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Ridgeview Terrace II, Ashtabula, OH; Project Number: 042-HD084/OH12-Q991-005.

*Nature Of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* The project experienced delays due to community opposition.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* NBA Dogwood Plaza, Boise, ID; Project Number: 124-EE020/ID16-S001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 10, 2003.

*Reason Waived:* The project experienced delays while the sponsor located another site since the purchase price of the original site exceeded its appraised value.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Azalea Place Apartments, Vancouver, WA; Project Number: 126-HD029/OR16-Q001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 13, 2003.

*Reason Waived:* Additional time was needed for the owner to complete modifications based on Clark County's building permit requirements.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Harvard Square, Irvine, CA; Project Number: 143-HD011/CA43-Q001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 15, 2003.

*Reason Waived:* Delays were incurred by the project due to additional time needed to correct unexpected site conditions, and to comply with requirements of the city's planning commission and permit office.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Project Live XI Consumer Home, East Orange, NJ; Project Number: 031-HD098/NJ39-Q991-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 22, 2003.

*Reason Waived:* HUD needed additional time to review the initial closing documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Congress Street Apartments, New Port Richey, FL; Project Number: 067-HD077/FL29-Q001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 24, 2003.

*Reason Waived:* The project has been delayed due to litigation involving the rezoning of one of the sites.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Bridgeway Apartments II, Picayune, MS; Project Number: 065-HD025/MS26-Q001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 24, 2003.

*Reason Waived:* Additional time was needed to reprocess the firm commitment and for the owner to prepare and submit the closing package.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Hale Mahaolu Econo 5, Lahaina, HI; Project Number: 140-EE021/HI10-S001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 24, 2003.

*Reason Waived:* Additional time was needed because construction problems with an adjacent section 202 project delayed the start of construction for the Hale Mahaolu Econo 5 project, and the sponsor needed additional time to locate another contractor.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and

Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Community Options Middlesex, Old Bridge, NJ; Project Number: 031-HD111/NJ39-Q001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 28, 2003.

*Reason Waived:* Additional time was needed because the sponsor had to obtain control of a different site from the site "identified" in the application.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Judson Terrace Lodge, San Luis Obispo, CA; Project Number: 122-EE163/CA16-S991-014.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 28, 2003.

*Reason Waived:* Additional time was needed to transfer land from an adjacent property to the Section 202 project in order to provide adequate access to the Section 202 project.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Main Street New Hope Courtyard Apartments, Los Angeles, CA; Project Number: 122-HD127/CA16-Q991-011.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 30, 2003.

*Reason Waived:* Additional time was needed to prepare the initial closing documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Cinnaminson Consumer House, Cinnaminson, NJ; Project Number: 035-HD044/NJ39-Q991-008.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 30, 2003.

*Reason Waived:* HUD needed additional time to review the documents and schedule the initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Yakubian Homes, Alton, IL; Project Number: 072-HD110/IL06-Q991-007.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 30, 2003.

*Reason Waived:* Additional time was needed to process and issue the Firm Commitment application.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Community Options Siek Road, Butler, NJ; Project Number: 031-HD110/NJ39-Q001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 30, 2003.

*Reason Waived:* The sponsor needed more time to obtain control of a different site from the site "identified" in the application.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Chesapeake Supportive Housing, Inc., Chesapeake, VA; Project Number: 051-HD074/VA36-Q981-005.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18

months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 31, 2003.

*Reason Waived:* The sponsor and co-sponsor needed additional time to gain title to the property and access to city infrastructure for the project site from the Chesapeake Redevelopment and Housing Authority.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Community Hope V Group Home, Washington Township, NJ; Project Number: 031-HD123/NJ39-Q001-014.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 31, 2003.

*Reason Waived:* The sponsor needed additional time to find an alternate site capable of alterations for accessibility. The sponsor also needed to resolve issues resulting from a change in contractors and the project's cost.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Edgcomb Woods, Windham, ME; Project Number: 024-EE053/ME36-S001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 31, 2003.

*Reason Waived:* The sponsor/owner needed additional time to locate an alternate site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Community Hope III Group Home, Mt. Olive Township, NJ; Project Number: 031-HD115/NJ39-Q001-006.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund

reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 12, 2003.

*Reason Waived:* The sponsor needed additional time to find an alternate site capable of alterations for accessibility. The sponsor also needed to resolve issues resulting from a change in contractors and the project's cost.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Union City Senior Housing, Union City, CA; Project Number: 121-EE136/CA39-S001-007.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 12, 2003.

*Reason Waived:* The project has not been able to reach initial closing due to delays in obtaining secondary financing, plan permits, and a state prevailing wage determination.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Hillsborough County VOA Living Center III, Tampa, FL; Project Number: 067-HD080/FL29-Q001-005.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 12, 2003.

*Reason Waived:* The sponsor needed additional time to redesign the project and re-bid the construction contracts. The sponsor also needed additional time to resolve remaining issues and to prepare closing documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Creekside Gardens, Paso Robles, CA; Project Number: 122-EE162/CA16-S991-013.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund

reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 12, 2003.

*Reason Waived:* The sponsor needed additional time to bring the project in at a reasonable cost.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Hill House, Cleveland, OH; Project Number: 042-HD088/OH12-Q001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* HUD needed additional time to review and approve secondary financing documents received from the Ohio Department of Mental Health.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Go-Getters, Incorporated, Princess Anne, MD; Project Number: 052-EE035/MD06-S001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* The project experienced delays due to problems in securing a contractor at reasonable cost.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* NCR of Harborcreek, Harborcreek, PA; Project Number: 033-EE105/PA28-S001-003.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* The sponsor needed additional time to complete the remediation requirements. The site was contaminated.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* ICAN Garden Apartments, Massillon, OH; Project Number: 042-HD090/OH12-Q001-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* The sponsor/owner needed additional time to address deficiencies in the Firm Commitment application and to conduct value engineering with the contractor.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Sturgis Consumer Home, Edison, NJ; Project Number: 031-HD116/NJ39-Q001-007.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* The sponsor needed additional time for the Firm Commitment application to be submitted and processed because of the recent approval of the site change.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Presidio Village Senior Housing, Pittsburg, Contra Costa County, CA; Project Number: 121-EE134/CA39-S001-005.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* The sponsor needed additional time to secure a new prime

contractor, new legal counsel, and additional funding.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Pohatcong Consumer Home, Phillipsburg, NJ; Project Number: 031-HD124/NJ39-Q001-016.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* The project experienced delays because the owner needed to redo the original drawings because of the excessive cost. A contractor had to be found who was willing to do the work at a reasonable cost.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Clark Place, Winchester, KY; Project Number: 083-HD063/KY36-Q001-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The project has been delayed because of environmental concerns as well as difficulties in obtaining gap financing. Additional time was needed to reach initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Independence Park Apartments, Farrell, PA; Project Number: 033-HD056/PA28-Q001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The project experienced delays because a new site had to be located. It was discovered that the original site had unsuitable fill that could not feasibly be removed and replaced with suitable fill.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Rhinelander Disabled Housing, Rhinelander, Oneida County, WI; Project Number: 075-HD063/WI39-Q991-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The owner needed additional time to locate an acceptable site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Brookview Gardens, Toledo, OH; Project Number: 042-HD087/OH12-Q001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* HUD needed additional time to resolve issues with the sponsor/owner regarding operating costs and architectural concerns.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* McTaggart Court I, Stow, OH; Project Number: 042-HD089/OH12-Q001-003.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The sponsor/owner needed additional time to find an alternate site twice due to neighborhood opposition.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* YMCA of Metropolitan Chicago, IL; Project Number: 071-EE141/IL06-S981-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 26, 2003.

*Reason Waived:* The sponsor/owner needed additional time for the Firm Commitment to be issued and initial closing to occur.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Oak Tree Apartments, Corporation, Huntington, WV; Project Number: 045-HD031/WV15-Q001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 28, 2003.

*Reason Waived:* HUD needed additional time to process the Firm Commitment application in order for the project to reach initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Bluegrass Village, Georgetown, KY; Project Number: 083-HD062/KY36-Q001-003.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 4, 2003.

*Reason Waived:* The sponsor/owner had difficulty obtaining additional gap financing. Project delays were caused by environmental concerns and zoning issues.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Rhinelander Elderly Housing, Rhinelander, WI; Project Number: 075-EE090/WI39-S991-010.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 4, 2003.

*Reason Waived:* HUD needed additional time to process initial closing documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* George & Lois Brown Estates, Henderson, NV; Project Number: 125-HD067/NV25-Q991-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 5, 2003.

*Reason Waived:* The project could not proceed to initial closing due to a lengthy delay in obtaining a survey, and also issues involving secondary financing documents.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Stanton Accessible Apartments, Stanton, CA; Project Number: 143-HD008/CA43-Q981-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 5, 2003.

*Reason Waived:* The owner needed additional time to resolve a funding issue.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Browns Memorial Manor, Rochester, NY; Project Number: 014-EE200/NY06-S001-006.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 13, 2003.

*Reason Waived:* HUD needed additional time to review the firm commitment application.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* St. Jude Manor, Akron, OH; Project Number: 042-EE112/OH12-S991-005.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 14, 2003.

*Reason Waived:* The project incurred delays due to a site change and the need to prepare the environmental study and site plans for the new site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Hayworth Housing, Los Angeles, CA; Project Number: 122-HD118/CA16-Q991-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 14, 2003.

*Reason Waived:* The sponsor needed additional time to find an acceptable site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Nader Building, Zanesville, OH; Project Number: 043-EE072/OH16-S001-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 14, 2003.

*Reason Waived:* The sponsor needed additional time to prepare the plans and specifications for the change in development methods, to obtain a demolition permit, and for the field office to submit a request to combine this project with the Sponsor's recently funded Section 202 project.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Sterling Oaks, Mt. Sterling, KY; Project Number: 083-HD064/KY36-Q001-005.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 17, 2003.

*Reason Waived:* The project experienced delays due to the sponsor's difficulty in obtaining a building permit from the local authorities.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Honoka'a Knolls Senior Apartments, Honoka'a, HI; Project Number: 140-EE020-NP-WAH/HI10-S991-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 17, 2003.

*Reason Waived:* The sponsor needed additional time to obtain funding from other sources.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Creekside Gardens, Paso Robles, CA; Project Number: 122-EE162/CA16-S991-013.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 17, 2003.

*Reason Waived:* HUD needed additional time to process the firm commitment application and for the owner to prepare documents for the initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* LaPlaya Apartments, San Francisco, CA; Project Number: 121-HD065/CA39-Q981-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 17, 2003.

*Reason Waived:* Additional time is needed to resolve the Building Permit appeal issue and to complete the legal requirements for initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Ka'u Group Home, Ka'u, HI; Project Number: 140-HD024/HI110-Q001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 17, 2003.

*Reason Waived:* Delays were caused because the sponsor had difficulty securing an acceptable site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* McDowell County Housing Action Network, Gary, WV; Project Number: 045-EE014/WV15-S001-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 17, 2003.

*Reason Waived:* The project incurred delays due to a site change, and the need to prepare the environmental study and site plans for the new site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* AHEPA Lehigh Chapter 60 Apartments, Allentown, PA; Project Number: 034-EE104/PA26-S001-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund



reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 19, 2003.

*Reason Waived:* The Owner needed additional time to resolve issues with the title and to get a lien removed from the site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Reseda Horizons, Northridge, CA; Project Number: 122-HD136/CA16-Q001-007.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 21, 2003.

*Reason Waived:* The sponsor needed additional time due to a site change and the subsequent development of contract documents for the new site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Union Seniors, Los Angeles, CA; Project Number: 122-EE133/CA16-S981-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 23, 2003.

*Reason Waived:* Additional time was needed for the field office to approve the new site, issue the Firm Commitment, and for the project to reach initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Hale O Mana'o Lana Hou II, Wailuku Maui, HI; Project Number: 140-HD015/HI110-Q961-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 24, 2003.

*Reason Waived:* Additional time was needed to resolve legal issues involving the partial release of the site.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* AHEPA 23—III Apartments, Montgomery, AL; Project Number: 062-EE046/AL09-S001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 25, 2003.

*Reason Waived:* Additional time was needed to obtain additional funds and to prepare for initial closing.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Floyd-Kress Homes, Frederick, MD; Project Number: 052-HD043/MD06-Q001-003.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 26, 2003.

*Reason Waived:* The sponsor needed additional time to obtain permits from the local government.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Pensdale Apartments, Philadelphia, PA; Project Number: 034-EE100/PA26-S991-009.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 28, 2003.

*Reason Waived:* The project incurred delays due to the length of time it took to relocate several commercial businesses in the property.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Nanaikeola Senior Apartments, Waianae, HI; Project Number: 140-EE019/HI10-S991-001.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 31, 2003.

*Reason Waived:* The sponsor needed additional time to search for additional funds from outside sources. The project incurred delays due to the need to redesign the project.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Hall Commons, Bridgeport, CT; Project Number: 017-EE063/CT26-S001-006.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 31, 2003.

*Reason Waived:* The project experienced significant delays because the sponsor had to replace the original architect and engineering team.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

• *Regulation:* 24 CFR 891.165.

*Project/Activity:* Seneca County VOA, Tiffin, OH; Project Number: 042-EE120/OH12-S001-004.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 31, 2003.

*Reason Waived:* The owner needed additional time to get approval from the Environmental Protection Agency for the sewer tap permit.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and



Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.165.

*Project/Activity:* Hill House, Cleveland, OH; Project Number: 042-HD088/OH12-Q001-002.

*Nature of Requirement:* Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 13, 2003.

*Reason Waived:* HUD needed additional time to review and approve secondary financing documents received from the Ohio Department of Mental Health.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.205.

*Project/Activity:* Immanuel Courtyard III, Omaha, NE; Project Number: 103-EE027/NE26-S021-001.

*Nature of Requirement:* Section 891.205 provides that Section 202 project owners be single-purpose corporations.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* February 28, 2003.

*Reason Waived:* The project will be built adjacent to the sponsor's existing Section 202 project and one owner-entity would promote greater service provision, significant cost savings, and coordinated administrative maintenance.

*Contact:* Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone: (202) 708-3000.

- *Regulation:* 24 CFR 891.410(c).

*Project/Activity:* Pioneer Square Apartments, Spokane, WA; Project Number: 171-EH002.

*Nature of Requirement:* Section 891.410 relates to admission of families to projects for elderly or handicapped families that received reservations under section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income elderly persons; that is, households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* January 30, 2003.

*Reason Waived:* The Northwest/Alaska Multifamily Hub requested permission to waive the age requirements of the subject property. The owner/management agent of the subject project has requested permission to waive the elderly and low-income requirements to alleviate the current

occupancy and financial problems at the property. The property will be allowed to rent to the non-elderly between the ages of 55 and 62 years and allow the applicants to meet the low-income eligibility requirements. Providing for a waiver to the elderly and low-income restrictions will allow the owner additional flexibility to rent vacant units. The owner will have the flexibility to offer units to the non-elderly, low-income applicants, and therefore, will be able to achieve full occupancy, and the project will not fail. This waiver is effective for one year from date of approval.

*Contact:* Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410-8000; telephone: (202) 708-3730.

- *Regulation:* 24 CFR 891.410(c).

*Project/Activity:* Fairfield Apartments, Huntington, WV; Project Number: 045-EE007.

*Nature of Requirement:* Section 891.410 relates to admission of families to projects for elderly or handicapped families that received reservations under section 202 of the Housing Act of 1959 and housing assistance under section 8 of the U.S. Housing Act of 1937. Section 891.410(c) limits occupancy to very low-income elderly persons; that is, households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

*Granted By:* John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

*Date Granted:* March 13, 2003.

*Reason Waived:* The Charleston Multifamily Program Center requested permission to waive the age requirements of the subject property. The owner/management agent of the subject project has requested permission to waive the elderly and low-income requirements to alleviate the current occupancy and financial problems at the property. The property will be allowed to rent to the non-elderly between the ages of 55 and 62 years and allow the applicants to meet the low-income eligibility requirements. Providing for a waiver to the elderly and low-income restrictions will allow the owner additional flexibility to rent vacant units. The owner will have the flexibility to offer units to the non-elderly, low-income applicants, and therefore, will be able to achieve full occupancy and the project will not fail. This waiver is effective for one year from date of approval.

*Contact:* Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410-8000; telephone: (202) 708-3730.

### III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following waivers actions, please see the name of the contact person who immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 902.33 (c).

*Project/Activity:* AL001, Housing Authority of the Birmingham District, Birmingham, AL.

*Nature of Requirement:* Section 902.33(c) addresses reporting compliance dates. Unaudited financial statements are required two months after the fiscal year end of a public housing agency (PHA) and audited financial statements are required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 of the Office of Management and Budget (OMB).

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 24, 2003.

*Reason Waived:* PHA's auditor's license was revoked prior to audit financial submission. This created a circumstance beyond the PHA's control for getting information submitted to Real Estate Assessment Center (REAC). PHA was granted extension of June 30, 2003.

*Contact:* Judy Wojciechowski, Director, Office of Troubled Agency Recovery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000; telephone: (202) 708-4932.

- *Regulation:* 24 CFR 902.33(c).

*Project/Activity:* FL057, Palatka Housing Authority, Palatka, FL.

*Nature of Requirement:* Section 902.33(c) addresses reporting compliance dates.

Unaudited financial statements are required two months after the fiscal year end of a public housing agency (PHA) and audited financial statements are required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 of the Office of Management and Budget (OMB).

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 3, 2003.

*Reason Waived:* PHA experienced several managerial/operational problems since early 2002. Both the Executive Director and Finance Director were suspended and then terminated. In addition, the Florida State Attorney's Office and HUD's Office of Inspector General (OIG) were currently investigating the agency's financial situation. Without certification from these agencies, the PHA could not complete its audit.

*Contact:* Judy Wojciechowski, Director, Office of Troubled Agency Recovery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410-5000; telephone: (202) 708-4932.

- *Regulation:* 24 CFR 902.33(c).

*Project/Activity:* IL039, Kankakee County Housing Authority, Kankakee, IL.

*Nature of Requirement:* Section 902.33(c) addresses reporting compliance dates.

Unaudited financial statements are required two months after the fiscal year end of a public housing agency (PHA) and audited financial statements are required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 of the Office of Management and Budget (OMB).

*Granted By:* Paula O. Blunt, for Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* April 2, 2003.

*Reason Waived:* The PHA had reporting problems for FY 2001 and an Independent

Public Accountant (IPA) conflict of interest problem for FY 2002. These issues hindered the PHA's ability to submit its audit reports to REAC in a timely manner.

*Contact:* Judy Wojciechowski, Director, Office of Troubled Agency Recovery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000; telephone: (202) 708-4932.

- *Regulation:* 24 CFR 902.33(c).

*Project/Activity:* TX036, Housing Authority of the City of Borger, Borger, TX.

*Nature of Requirement:* Section 902.33(c) addresses reporting compliance dates.

Unaudited financial statements are required two months after the fiscal year end of a public housing agency (PHA) and audited financial statements are required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 of the Office of Management and Budget (OMB).

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 7, 2003.

*Reason Waived:* PHA stated that HUD's OIG had its financial books from July 23, 2002, through November 20, 2002, which affected its ability to submit the audit report to REAC in a timely manner.

*Contact:* Judy Wojciechowski, Director, Office of Troubled Agency Recovery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000; telephone: (202) 708-4932.

- *Regulation:* 24 CFR 982.207(b)(3).

*Project/Activity:* San Francisco Housing Authority (SFHA), San Francisco, CA. The SFHA requested a waiver of a selection preference regulation in order to select Housing Opportunities for Persons with AIDS (HOPWA)-eligible families to occupy 61 of the units receiving project-based voucher assistance at the 68-unit Derek Silva project.

*Nature of Requirement:* Section 982.207(b)(3), which governs tenant selection under the project-based voucher program, states that a housing agency may adopt a preference for admission of families that include a person with disabilities, but may not adopt a preference for persons with a specific disability.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 19, 2003.

*Reason Waived:* Since by law only persons with HIV/AIDS may occupy units developed with HOPWA funds, a public housing agency may only authorize occupancy of such units that also receive project-based voucher assistance by persons with HIV/AIDS. Therefore, in selecting families to refer to the owner for occupancy of these units, the SFHA will have to pass over persons on its waiting list until it reaches a person with HIV/AIDS who is interested in moving into one of these units at the Derek Silva project.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street,

SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* 24 CFR 982.207(b)(3).

*Project/Activity:* Anaheim Housing Authority (AHA), Anaheim, CA. The AHA requested a waiver of a selection preference regulation in order to select Housing Opportunities for Persons with HIV/AIDS (HOPWA) eligible families to occupy 22 units receiving project-based voucher assistance at the 23-unit Casa Alegre project.

*Nature of Requirement:* Section 982.207(b)(3) states that a housing agency may adopt a preference for admission of families that include a person with disabilities, but may not adopt a preference for persons with a specific disability.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 26, 2003.

*Reason Waived:* Since by law only persons with HIV/AIDS may occupy units developed with HOPWA funds, a public housing agency may only authorize occupancy of such units that also receive project-based voucher assistance by persons with HIV/AIDS. Therefore, in selecting families to refer to the owner for occupancy of these units, the SFHA will have to pass over persons on its waiting list until it reaches a person with HIV/AIDS who is interested in moving into one of these units at the Casa Alegre Silva project.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* 24 CFR 982.207(b)(3).

*Project/Activity:* San Francisco Housing Authority (SFHA), San Francisco, CA. The SFHA requested a waiver of a selection preference regulation in order to select Housing Opportunities for Persons with HIV/AIDS (HOPWA) eligible families to occupy 8 of the 18 units receiving project-based voucher assistance at the Dudley Hotel.

*Nature of Requirement:* Section 982.207(b)(3) states that a housing agency may adopt a preference for admission of families that include a person with disabilities, but may not adopt a preference for persons with a specific disability.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 26, 2003.

*Reason Waived:* Since by law only persons with HIV/AIDS may occupy units developed with HOPWA funds, a public housing agency may only authorize occupancy of such units that also receive project-based voucher assistance by persons with HIV/AIDS. Therefore, in selecting families to refer to the owner for occupancy of these units, the SFHA will have to pass over persons on its waiting list until it reaches a person with HIV/AIDS who is interested in moving into one of these units at the Dudley Hotel.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and

Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* 24 CFR 982.505(d).

*Project/Activity:* Brookline Housing Authority (BHA), Brookline, MA. The BHA requested a special exception payment standard that exceeds 120 percent of the fair market rent as a reasonable accommodation for a disabled housing choice voucher program participant. The participant suffers from bi-polar disorder that makes her unable to manage her personal finances, solve daily problems, and render reasonable judgment decisions regarding her personal safety.

*Nature of Requirement:* Section 982.505(d) allows a PHA to approve a higher payment standard within the basic range for a family that includes a person with a disability as a reasonable accommodation in accordance with 24 CFR Part 8.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* January 21, 2003.

*Reason Waived:* Approval of the waiver was granted to allow a disabled housing choice voucher participant to rent a unit with on-site supervision and assistance with living activities, without which she would not be able to live independently.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* 24 CFR 982.505(d)

*Project/Activity:* Housing Authority of the City of Los Angeles (HACLA), Los Angeles, CA. The HACLA requested a special exception payment standard that exceeds 120 percent of the fair market rent as a reasonable accommodation for a housing choice voucher program participant with a disabled family member. The family member suffers from brain damage and has a developmental disability.

*Nature of Requirement:* Section 982.505(d) allows a PHA to approve a higher payment standard within the basic range for a family that includes a person with a disability as a reasonable accommodation in accordance with 24 CFR Part 8.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 4, 2003.

*Reason Waived:* Approval of the waiver was granted to allow a housing choice voucher participant to rent a unit close to the medical care facilities that are required frequently by the disabled family member.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* 24 CFR 983.51

*Project/Activity:* San Francisco Housing Authority (SFHA), San Francisco, CA. The SFHA requested a waiver of competitive selection of owner proposals.

*Nature of Requirement:* Section 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 28, 2003.

*Reason Waived:* Competitive selection was waived since Valencia Gardens had already undergone a competitive selection process for a HOPE VI grant.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* 24 CFR 983.51 and Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Oakland Housing Authority (OHA), Oakland, CA. The OHA requested a waiver of competitive selection of owner proposals and an exception to the initial guidance to permit it to attach PBA to Mandela Gateway that will be located in a census tract with a poverty rate of 52 percent.

*Nature of Requirement:* Section 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy. Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 4, 2003.

*Reason Waived:* Competitive selection was waived since the project developer/partner was already competitively selected as a HOPE VI partner by the OHA. Approval of the exception for deconcentration was granted since Mandela Gateway is in a HUD-designated Enhanced Enterprise Community, the purpose of which is to open new businesses, and create jobs, housing, and new educational and healthcare opportunities. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* 24 CFR 983.51 and Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Dayton Metropolitan Housing Authority (DMHA), Dayton, OH. The DMHA requested a waiver of competitive selection of owner proposals and

an exception to the initial guidance to permit it to attach PBA to Dayton View Commons that will be located in a census tract with a poverty rate of 50 percent.

*Nature of Requirement:* Section 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy. Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* February 13, 2003.

*Reason Waived:* Competitive selection was waived since the project was competitively awarded nine percent Low Income Housing Tax Credits through the Ohio Housing Finance Agency. Approval of the exception for deconcentration was granted since Dayton View Commons is a HOPE VI project, the purpose of which is to transform public housing through: changing the physical shape of public housing; establishing positive incentives for resident self-sufficiency and comprehensive services that empower residents; promoting mixed-income communities; and forging partnerships with other agencies, local governments, nonprofit organizations, and private businesses to leverage support and resources. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* 24 CFR 983.51 and Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Tacoma Housing Authority (THA), Tacoma, WA. The THA requested a waiver of competitive selection of owner proposals and an exception to the initial guidance to permit it to attach PBA to Hillside Terrace Phase II that will be located in a census tract with a poverty rate of 28.9 percent.

*Nature of Requirement:* Section 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy. Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 4, 2003.

*Reason Waived:* Competitive selection was waived since the project had already gone through two rounds of competitive selection.

It competed for Low Income Housing Tax Credits through the Washington State Housing Finance Commission and was competitively awarded \$250,000 by the Washington State Housing Trust Fund. Approval of the exception for deconcentration was granted since the number of assisted units in this project was reduced from 60 units of public housing to 51 assisted units including the five that receive PBA. Also, the city of Tacoma is a HUD-designated Renewal Community (formerly Enterprise Community), the purpose of which is to open new businesses, and create jobs, housing, and new educational and healthcare opportunities for thousands of Americans. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* 24 CFR 983.51 and Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Chicago Housing Authority (CHA), Chicago, IL. The CHA requested a waiver of competitive selection of owner proposals and an exception to the initial guidance to permit it to attach PBA to 600 South Wabash that will be located in a census tract with a poverty rate of 24 percent.

*Nature of Requirement:* Regulations at 24 CFR 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy. Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 12, 2003.

*Reason Waived:* Competitive selection was waived since 600 Wabash had gone through several competitive rounds including the City of Chicago Department of Housing's competition for low-income housing tax credits, the Chicago Low Income Housing Trust Fund Affordable Rents for Chicago competition, the HUD Shelter Plus Care application process, and the IHDA Affordable Housing Tax Credit competition. Approval of the exception for deconcentration was granted since between 1990 and 2000 the population of the two community areas in which the project is located, the Loop and Near South Side, grew by 37 and 39 percent, respectively. There was a 23 percent increase in the number of businesses and a 20 percent increase in the number of wage earners during the same time period. This is consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* 24 CFR 983.51 and Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Cuyahoga Metropolitan Housing Authority (CMHA), Cleveland, OH. The CMHA requested a waiver of competitive selection of owner proposals and an exception to the initial guidance to permit it to attach PBA to Cleveland New Construction III in census tracts with poverty rates that range from 30.5 to 54.2 percent.

*Nature of Requirement:* Section 983.51 requires competitive selection of owner proposals in accordance with a housing authority's HUD-approved advertisement and unit selection policy. Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 18, 2003.

*Reason Waived:* The CMHA was awarded funds by the Department to provide housing to replace approximately 350 units of obsolete multifamily housing that were demolished in the neighborhoods of Hough and Glenville. Cleveland New Construction (CNC) III is one of the projects designed to replace 234 of the 350 units demolished. Competitive selection was waived since the CMHA's partner in the development of CNC III was competitively selected in September 2000. Approval of the exception for deconcentration was granted since 40 units of the CNC III project, in which the CMHA plans to attach PBA will be located in Cleveland's HUD-designated Empowerment Zone, the purpose of which is to open new businesses, and create jobs, housing, and new educational and healthcare opportunities. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Housing Authority of New Orleans (HANO), New Orleans, LA. The HANO requested an exception to the Initial Guidance for three developments that are located in census tracts with poverty rates greater than 20 percent. The HANO's request for an exemption for the following three

projects was based upon a need for decent and affordable housing in the city and continued improvement in areas where millions of dollars have been spent to rehabilitate blighted housing in a city where one third of the housing stock was built prior to 1940.

*Nature of Requirement:* Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* January 6, 2003.

*Reason Waived:* The City of New Orleans developed an Impact Neighborhood Strategy (INS) that promotes rehabilitating projects in cluster areas, bringing together public and private sector resources. The focus of this initiative is the establishment of partnerships between the city, financial institutions, neighborhood churches, and community-based organizations. By pooling public and private funds, these partnerships create a variety of housing programs targeting homeownership, owner-occupied rehabilitation, and investor-owned rehabilitation. The City of New Orleans identified six INS areas. The goals of the INS areas are consistent with the goals of deconcentrating poverty.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* Section II subpart F and subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Manchester Housing and Redevelopment Authority (MHRA), Manchester, NH. The MHRA requested an exception to the Initial Guidance on revisions to the project-based assistance (PBA) program published in the **Federal Register** on January 16, 2001, regarding the 25 percent cap on the number of units in a building to which PBA can be attached. This exception was requested for four sites owned and managed by Families in Transition (FIT), to which the MHRA intends to attach such assistance. The MHRA also requested an exception in regard to deconcentration for a project owned by the Neighborhood Housing Service (NHS).

*Nature of Requirement:* Section II subpart F of the Initial Guidance, states that a PHA may not enter into an agreement or housing assistance payments (HAP) contract to provide project-based voucher assistance for more than 25 percent of the units in any one building, except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services. Section II subpart E of the Initial Guidance requires that all new PBA agreements or HAP contracts be for units in census tracts with poverty rates of less than 20 percent, unless HUD

specifically approves an exception. The aforementioned Initial Guidance requires that a PBA contract may only be approved if it is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 4, 2003.

*Reason Waived:* Approval of the exception regarding the 25 percent cap was granted because all four of the sites owned and managed by FIT will be leased to families receiving supportive services. FIT provides a considerable array of services, including case management, therapeutic services, community meetings, educational workshops, employment and advanced computer training program, childcare, transportation, and linkages to numerous other service providers. In regards to deconcentration, the NHS proposes to provide PBA for six units at 25 Brook Street/15-19 Temple Court. There are several housing and economic development activities going on in the census tract where these projects are located. The Verizon Wireless Arena opened one year ago and is bringing numerous sporting and entertainment venues to Manchester that stimulate restaurant, hotel, and retail activity; a sizeable residential development is planned for the block at the corner of Bridge and Elm Street that will include 210 units that are to be "upscale and costly" thereby reducing the concentration of low-income households in the census tract; renovations are underway to the offices at Hampshire Plaza at 1000 Elm Street as well as to the retail and office space at the Chase Building at 1037-1043 Elm Street. The Smith Dow Block at 1382-1480 Elm Street was also renovated a couple of years ago considerably upgrading the 68 residential units there. Additional planned improvements include streetscape improvements at Lowell and Elm Streets and the widening of Granite Street.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

• *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Vermont State Housing Authority (VSHA), Montpelier, VT. The VSHA requested an exception to the Initial Guidance on revisions to the project-based assistance program published in the **Federal Register** on January 16, 2001, regarding the 25 percent cap on the number of units in a building to which PBA can be attached. This exception was requested by the Housing Foundation, Inc. on behalf of Templeton Court Apartments, to which VSHA intends to attach such assistance.

*Nature of Requirement:* Section II subpart F of the Initial Guidance states that a PHA may not enter into an agreement or housing assistance payments contract to provide project-based voucher assistance for more

than 25 percent of the units in any one building, except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 4, 2003.

*Reason Waived:* Approval of the exception was granted because the programs at Templeton Court provide services to people of all ages and include a strong emphasis on self-sufficiency and economic independence. To this objective, Templeton Court Apartments provide a considerable array of supportive services which include activities for children such as playgroups, homework clubs, mentoring program with students from Dartmouth College; and for adults, GED classes, and both the voucher family self-sufficiency program and voucher homeownership program.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* St. Paul Public Housing Agency (SPPHA), St. Paul, MN. The SPPHA requested an exception to the initial guidance to permit it to attach PBA to North Grotto, a building that is in a census tract with a poverty rate of 22.8 percent.

*Nature of Requirement:* Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 7, 2003.

*Reason Waived:* Approval of the exception for deconcentration was granted since the Grotto is within 165 yards of a HUD-designated Enterprise Community the goals of which are to open new businesses, create jobs, housing, and new educational and healthcare opportunities. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-0; telephone: (202) 708-0477.

- *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Chicago Housing Authority (CHA), Chicago, IL. The CHA requested an exception to the initial guidance to permit it to attach PBA to Roosevelt Tower

that will be located in a census tract with a poverty rate of 78.32 percent.

*Nature of Requirement:* Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 7, 2003.

*Reason Waived:* Approval of the exception for deconcentration was granted since Roosevelt Tower is in a HUD-designated Enterprise Community, the purpose of which is to open new businesses, and create jobs, housing, and new educational and healthcare opportunities. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance (PBA) Program; Initial Guidance.

*Project/Activity:* Douglas County Housing Authority (DCHA), Omaha, NE. The DCHA requested an exception to waive the requirement that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services for Platte Valley Apartments.

*Nature of Requirement:* Section II subpart F requires that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 18, 2003.

*Reason Waived:* Approval of the exception for the number of units in a building that may be project based was granted because the families living in all 48 units of Platte Valley Apartments will participate in the Family Self-Sufficiency program. These supportive services are consistent with the statute.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

- *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-Based Assistance Program; Initial Guidance.

*Project/Activity:* Housing Authority of Baltimore City (HABC), Baltimore, MD. The

HABC requested an exception to the initial guidance to permit it to attach PBA to Barrister Court, a project that will be located in a census tract with a poverty rate of 24.9 percent.

*Nature of Requirement:* Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent.

*Granted By:* Michael Liu, Assistant Secretary for Public and Indian Housing.

*Date Granted:* March 24, 2003.

*Reason Waived:* Approval of this waiver was granted because Barrister Court is in a HUD-designated Empowerment Zone, the purpose of which is to open new businesses, and create jobs, housing, and new educational and healthcare opportunities. These goals are consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

*Contact:* Gerald Benoit, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410-5000; telephone: (202) 708-0477.

#### IV. Regulatory Waivers Granted by the Office of Policy Development and Research

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 84.83(f).

*Project/Activity:* Cooperative Agreement number H-21375CA, titled, "Success Measures Guidebook Revision" awarded to McAuley Institute, 8380 Colesville Road, Silver Spring, MD 20910-6255. A waiver of intellectual property rights was granted for this Cooperative Agreement.

*Nature of Requirement:* The waiver of intellectual property rights provides that HUD will have a permanent right to publish or reproduce the Revised Guidebook, and that HUD waives its right to make derivative, or other permissible uses of the Revised Guidebook. It further acknowledges that HUD has no copyright interest in McAuley's original Guidebook, or the Revised Guidebook to be developed under the terms of the Cooperative Agreement that will be awarded to McAuley.

*Granted By:* Alberto F. Trevino, Assistant Secretary for the Office of Policy Development and Research.

*Date Granted:* March 12, 2003.

*Reason Waived:* Request from Grantee to protect copyright of the original Guidebook.

*Contact:* Patrick J. Tewey, Director, Office of Policy Development and Research, Contract and Program Control Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-6000; telephone: (202) 708-1796.

[FR Doc. 03-23885 Filed 9-18-03; 8:45 am]

BILLING CODE 4210-32-P



# Federal Register

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**Friday,  
September 19, 2003**

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**Part III**

## **Environmental Protection Agency**

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**40 CFR Part 94**

**Control of Emissions From New Marine  
Diesel Engines; Direct Final Rule and  
Proposed Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 94**

[AMS-FRL-7561-4]

**Control of Emissions From New Marine Diesel Engines**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule restores certain regulatory text that was adopted for recreational marine diesel engines on November 8, 2002 and corrects several typographical errors that do not affect the substance of the regulations. On February 28, 2003, we promulgated a final rule for Category 3 marine diesel engines. In doing so, we inadvertently supplanted some sections of the regulatory text that were adopted in the November 8, 2002 final rule for recreational marine diesel engines. This final rule restores that regulatory text.

**DATES:** This direct final rule is effective on November 3, 2003 without further notice, unless we receive adverse comments by October 20, 2003 or receive a request for a public hearing by October 6, 2003. If we receive any adverse comments on this direct final rule or receive a request for a hearing within the time frame described above, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Comments: All comments and materials relevant to this action should be submitted to Public Docket No. OAR-2003-00046.

**Docket:** Materials relevant to this rulemaking are in Public Dockets A-2000-01 and A-2001-11 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on government holidays. You

can reach the Air Docket by telephone at (202) 566-1742 and by facsimile at (202) 566-1741. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

**FOR FURTHER INFORMATION CONTACT:** Alan Stout, Assessment and Standards Division, e-mail [stout.alan@epa.gov](mailto:stout.alan@epa.gov), voice-mail (734) 214-4636.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Regulated Entities*

This action will affect companies and persons that manufacture, sell, or import into the United States new marine compression-ignition engines for use on vessels flagged or registered in the United States; companies and persons that make vessels that will be flagged or registered in the United States and that use such engines; and the owners or operators of such U.S. vessels. Affected categories and entities include the following:

Category	NAICS code <sup>a</sup>	Examples of potentially affected entities
Industry .....	333618	Manufacturers of new marine diesel engines.
Industry .....	336611	Manufacturers of marine vessels.

<sup>a</sup> North American Industry Classification System (NAICS).

This list is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. To determine whether particular activities may be affected by this action, you should carefully examine the regulations. You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Copies of This Document?*

1. **Docket.** EPA has established an official public docket for this action under Air Docket Number OAR-2003-0046. 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 Air 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 Air Docket is (202) 566-1742.

2. **Electronic Access.** This direct final rule is available electronically from the EPA Internet Web site. This service is free of charge, except for any cost incurred for internet connectivity. The electronic version of this final rule is made available on the date of publication on the primary web site listed below. The EPA Office of Transportation and Air Quality also publishes **Federal Register** notices and related documents on the secondary web site listed below.

1. <http://www.epa.gov/docs/fedrgstr/EPA-AIR> (either select desired date or use Search features).
2. <http://www.epa.gov/otaq> (look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the documents and the software into which the document may be downloaded, format changes may occur.

*C. How and to Whom Do I Submit Comments?*

You may submit comments on this direct final rule as described in this section. You should note that we are also publishing a notice of proposed rulemaking in the "Proposed Rules" section of today's **Federal Register**, which matches the substance of this direct final rule. Your comments on this direct final will be considered to also be applicable to that notice of proposed rulemaking. If we receive any adverse comments on this direct final rule or receive a request for a hearing within the time frame described above, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. We will then take final action to correct the regulatory text in a final rule based on the accompanying proposal. We will not institute a second comment period.

You may submit comments electronically, by mail, by facsimile, 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.

i. *EPA dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in Docket ID No. OAR-2003-0046. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov) Attention Air Docket ID No. OAR-2003-0046. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in **ADDRESSES** above. 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 two copies of your comments to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OAR-2003-0046.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Air Docket ID No. OAR-2003-0046. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.

4. *By Facsimile.* Fax your comments to: (202) 566-1741, Attention Docket ID No. OAR-2001-0011.

## II. Summary of Rule

We proposed emission standards for Category 3 marine diesel engines in 40 CFR part 94 on May 29, 2002 (67 FR 37548). Before finalizing the Category 3 emission standards, we promulgated emission standards for recreational marine diesel engines in 40 CFR part 94 (67 FR 68242, November 8, 2002).

We adopted final emission standards for Category 3 marine diesel engines on February 28, 2003 (68 FR 9746). These changes to 40 CFR part 94 inadvertently supplanted some of the provisions we had recently established for recreational marine diesel engines in November 2002. This rule would correct those errors; these corrections are intended merely to restore the regulatory text we originally adopted under each program, as follows:

- 40 CFR 94.8(a): Restoring the text describing the emission standards for recreational marine diesel engines to Table A-1.
- 40 CFR 94.8(e): Restoring the text describing the not-to-exceed standards for recreational marine diesel engines.
- 40 CFR 94.9(a): Restoring the text describing the useful-life values for recreational marine diesel engines.
- 40 CFR 94.12(h): Renumbering the provisions regarding flexibility for small-volume boat builders.

In addition, this rule corrects several typographical errors that do not affect the substance of the regulations:

- 40 CFR 94.2: Renumbering the paragraph designations under the definition for "New vessel."
- 40 CFR 94.8(e): Removing the model year for Tier 2 standards for Category 3 engines, consistent with § 94.8(a)(2)(ii).
- 40 CFR 94.9(a)(1)(iv): Adding the word "engines" to complete the

sentence describing useful life values for Category 3 engines.

Because EPA views the provisions of the action as noncontroversial and does not expect adverse comment, it is appropriate to proceed by direct final rulemaking.

If we receive adverse comment on one or more distinct amendments, paragraphs, or sections of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn due to adverse comment. Any distinct amendment, paragraph, or section of today's rulemaking for which we do not receive adverse comment will become effective on the date set out above, notwithstanding any adverse comment on any other distinct amendment, paragraph, or section of today's rule.

## III. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of this Executive Order. The Executive Order defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or Tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This direct final rule is not a significant regulatory action as it merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. There are no new costs associated with this rule. A Final Regulatory Support Document was prepared in connection with the original regulations for



recreational marine diesel engines as promulgated on November 8, 2002 (67 FR 68242) and we have no reason to believe that our analysis in the original rulemaking is inadequate. The relevant analysis is available in the docket for the November 8, 2002 rulemaking (A-2000-01) and at the following internet address: <http://www.epa.gov/otaq/marine.htm>. The original action was submitted to the Office of Management and Budget for review under Executive Order 12866.

#### B. Paperwork Reduction Act

This direct final rule does not include any new collection requirements, as it merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. The information collection requirements (ICR) for the original recreational marine diesel rulemaking (67 FR 68242, November 8, 2002) were approved on January 31, 2003 by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (EPA #1897.04; OMB control number 2060-0460). We published notice of OMB's approval on February 28, 2003 (68 FR 9778).

#### C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this direct final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of this final rule on small entities, a small entity is defined as: (1) A small business that meet the definition for business based on SBA size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. This direct final rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations.

Prior to proposing the original recreational marine diesel rulemaking on November 8, 2002, EPA conducted outreach to small entities and convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations of representatives of

the small entities that potentially would be subject to that rule's requirements (67 FR 68331). For a full description of the Panel process, the SBAR report, and the Initial Regulatory Flexibility Analysis (in Chapter 8 of the Draft Regulatory Support Document), refer to the docket for the original recreational marine diesel rulemaking (Public Docket A-2000-01) and the following internet address: <http://www.epa.gov/otaq/marine.htm>.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why such an alternative was 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.

This rule contains no Federal mandates for State, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the rule would significantly

or uniquely affect small governments. EPA has determined that this rule contains no federal mandates that may result in expenditures of more than \$100 million to the private sector in any single year. This direct final rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. The requirements of UMRA therefore do not apply to this action.

#### 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" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt State or local law, even if those rules do not have federalism implications (*i.e.*, the rules 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). Those requirements include providing all affected State and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, EPA also must consult, to the extent practicable, with appropriate State and local officials regarding the conflict between State law and

Federally protected interests within the agency's area of regulatory responsibility.

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This direct final rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. Although section 6 of Executive Order 13132 did not apply to the original recreational marine diesel rule (67 FR 68242, November 8, 2002), EPA did consult with representatives of various State and local governments in developing that rule. EPA has also consulted representatives from STAPPA/ALAPCO, which represents state and local air pollution officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (59 FR 22951, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule does not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this rule. This direct final rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several

typographical errors that do not affect the substance of the regulations. Thus, Executive Order 13175 does not apply to this rule.

#### *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, section 5-501 of the Order directs the Agency to 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.

This rule is not subject to the Executive Order because it is not economically significant, and does not involve decisions on environmental health or safety risks that may disproportionately affect children.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This direct final rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA

directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. It merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. Thus, we have determined that the requirements of the NTTAA do not apply.

#### *J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to Congress and the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This direct final rule is effective on November 3, 2003.

#### *K. Statutory Authority*

The statutory authority for this action comes from sections 114, 213, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7547, and 7601(a)). This action is a rulemaking subject to the provisions of Clean Air Act section 307(d). See 42 U.S.C. 7606(d)(1).

#### **List of Subjects in 40 CFR Part 94**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

Dated: September 12, 2003.

**Marianne Lamont Horinko**,  
*Acting Administrator.*

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

**PART 94—CONTROL OF EMISSIONS FROM MARINE COMPRESSION-IGNITION ENGINES**

■ 1. The authority citation for part 94 continues to read as follows:

**Authority:** 42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7545, 7547, 7549, 7550 and 7601(a).

**Subpart A—[Amended]**

■ 2. Section 94.2 is amended by redesignating paragraphs (1)(iii)(A)(2) and (3) of the definition of “New vessel” as paragraphs (1)(iii)(B) and (C).

■ 3. Section 94.8 is amended by revising Table A–1 in paragraph (a)(2)(i) and paragraph (e) to read as follows:

**§ 94.8 Exhaust emission standards.**

- (a) \* \* \*
- (2) (i) \* \* \*

TABLE A–1.—PRIMARY TIER 2 EXHAUST EMISSION STANDARDS (G/KW-HR)

Engine Size liters/cylinder, rated power	Category	Model year <sup>a</sup>	THC+NO <sub>x</sub> g/kW-hr	CO g/kW-hr	PM g/kW-hr
disp. <0.9 and power ≥37 kW .....	Category 1, Commercial .....	2005	7.5	5.0	0.40
	Category 1, Recreational .....	2007	7.5	5.0	0.40
0.9 ≤ disp. <1.2 all power levels .....	Category 1, Commercial .....	2004	7.2	5.0	0.30
	Category 1, Recreational .....	2006	7.2	5.0	0.30
1.2 ≤ disp. <2.5 all power levels .....	Category 1, Commercial .....	2004	7.2	5.0	0.20
	Category 1, Recreational .....	2006	7.2	5.0	0.20
2.5 ≤ disp. <5.0 all power levels .....	Category 1, Commercial .....	2007	7.2	5.0	0.20
	Category 1, Recreational .....	2009	7.2	5.0	0.20
5.0 ≤ disp. <15.0 all power levels .....	Category 2 .....	2007	7.8	5.0	0.27
15.0 ≤ disp. <20.0 power <3300 kW .....	Category 2 .....	2007	8.7	5.0	0.50
15.0 ≤ disp. <20.0 power ≥3300 kW .....	Category 2 .....	2007	9.8	5.0	0.50
20.0 ≤ disp. <25.0 all power levels .....	Category 2 .....	2007	9.8	5.0	0.50
25.0 ≤ disp. <30.0 all power levels .....	Category 2 .....	2007	11.0	5.0	0.50
disp. ≥30.0 all power levels .....	Category 3 .....	See paragraph (a)(2)(ii) of this section			

<sup>a</sup> The model years listed indicate the model years for which the specified standards start.

\* \* \* \* \*

(e) Exhaust emissions from Category 1 and Category 2 propulsion engines subject to the standards (or FELs) in paragraph (a), (c), or (f) of this section shall not exceed:

(1) *Commercial marine engines.* (i) 1.20 times the applicable standards (or FELs) when tested in accordance with the supplemental test procedures specified in § 94.106 at loads greater than or equal to 45 percent of the maximum power at rated speed or 1.50 times the applicable standards (or FELs) at loads less than 45 percent of the maximum power at rated speed.

(ii) As an option, the manufacturer may choose to comply with limits of 1.25 times the applicable standards (or FELs) when tested over the whole power range in accordance with the supplemental test procedures specified in § 94.106, instead of the limits in paragraph (e)(1)(i) of this section.

(2) *Recreational marine engines.* (i) 1.20 times the applicable standards (or

FELs) when tested in accordance with the supplemental test procedures specified in § 94.106 at loads greater than or equal to 45 percent of the maximum power at rated speed and speeds less than 95 percent of maximum test speed, or 1.50 times the applicable standards (or FELs) at loads less than 45 percent of the maximum power at rated speed, or 1.50 times the applicable standards (or FELs) at any loads for speeds greater than or equal to 95 percent of the maximum test speed.

(ii) As an option, the manufacturer may choose to comply with limits of 1.25 times the applicable standards (or FELs) when tested over the whole power range in accordance with the supplemental test procedures specified in § 94.106, instead of the limits in paragraph (e)(2)(i) of this section.

\* \* \* \* \*

■ 4. Section 94.9 is amended by revising paragraph (a)(1) to read as follows:

**§ 94.9 Compliance with emission standards.**

(a) \* \* \*

(1) The minimum useful life is:

(i) 10 years or 1,000 hours of operation for recreational Category 1 engines.

(ii) 10 years or 10,000 hours of operation for commercial Category 1 engines.

(iii) 10 years or 20,000 hours of operation for Category 2 engines.

(iv) 3 years or 10,000 hours of operation for Category 3 engines.

\* \* \* \* \*

**§ 94.12 [Amended]**

■ 5. Section 94.12 is amended by redesignating paragraph (f) as paragraph (h) and reserving paragraph (f).

[FR Doc. 03–23848 Filed 9–18–03; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 94**

[AMS-FRL-7561-3]

**Control of Emissions From New Marine Diesel Engines**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule restores certain regulatory text that was adopted for recreational marine diesel engines on November 8, 2002 and corrects several typographical errors that do not affect the substance of the regulations. On February 28, 2003, we promulgated a final rule for Category 3 marine diesel engines. In doing so, we inadvertently supplanted some sections of the regulatory text that were adopted in the November 8, 2002 final rule for recreational marine diesel engines. This notice proposes to restore that regulatory text.

We are publishing in the "Rules and Regulations" section of today's **Federal Register** a direct final rule that will replace the recreational marine diesel text and correct the typographical errors without further EPA action unless we

receive adverse comment. We have explained our reasons for today's action in detail in the preamble to the direct final rule. If we receive adverse comment, we will withdraw the direct final rule prior to its effective date, and will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Written comments must be received by October 20, 2003. Request for a public hearing must be received by October 6, 2003. If we receive a request for a public hearing, we will publish information related to the timing and location of the hearing and the timing of a new deadline for public comments.

**ADDRESSES:** Comments: All comments and materials relevant to this action should be submitted to Public Docket No. A-2001-11 by the date indicated under **DATES** above. Materials relevant to this rulemaking are in Public Dockets A-2000-01 and A-2001-11 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to

4:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 566-1742 and by facsimile at (202) 566-1741. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Alan Stout, Assessment and Standards Division, e-mail [stout.alan@epa.gov](mailto:stout.alan@epa.gov), voice-mail (734) 214-4636.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Regulated Entities*

This action will affect companies and persons that manufacture, sell, or import into the United States new marine compression-ignition engines for use on vessels flagged or registered in the United States; companies and persons that make vessels that will be flagged or registered in the United States and that use such engines; and the owners or operators of such U.S. vessels. Affected categories and entities include the following:

Category	NAICS Code <sup>a</sup>	Examples of potentially affected entities
Industry .....	333618	Manufacturers of new marine diesel engines.
Industry .....	336611	Manufacturers of marine vessels.

<sup>a</sup>North American Industry Classification System (NAICS)

This list is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. To determine whether particular activities may be affected by this action, you should carefully examine the regulations. You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Copies of This Document and Send Comments?*

See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for information about accessing these documents. The direct final rule also includes detailed instructions for sending comments to EPA.

**II. Summary of Rule**

This rule merely restores previously adopted regulatory text in 40 CFR part 94, related to the regulation of recreational marine diesel engines, that

was inadvertently supplanted by a subsequent rule. It also corrects several typographical errors, related to the regulation of recreational marine diesel and Category 3 marine diesel engines, that do not affect the substance of the regulations. For additional discussion of these changes, see the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register**. This proposal incorporates by reference all the reasoning, explanation, and regulatory text from the direct final rule.

**III. Statutory and Executive Order Reviews**

*A. Executive Order 12866: Regulatory Planning and Review*

Because this rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations, it is not a significant regulatory action and is not

subject to the requirements of Executive Order 12866. There are no new costs associated with this rule. A Final Regulatory Support Document was prepared in connection with the original regulations for recreational marine diesel engines as promulgated on November 8, 2002 (67 FR 68242) and we have no reason to believe that our analysis in the original rulemaking is inadequate. The relevant analysis is available in the docket for the November 8, 2002 rulemaking (A-2000-01) and at the following internet address: <http://www.epa.gov/otaq/marine.htm>. The original action was submitted to the Office of Management and Budget for review under Executive Order 12866. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 12866.

### B. Paperwork Reduction Act

This rule does not include any new collection requirements, as it merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. The information collection requirements (ICR) for the original recreational marine diesel rulemaking (67 FR 68242, November 8, 2002) were approved on January 31, 2003 by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* We published notice of OMB's approval on February 28, 2003 (68 FR 9778).

### C. Regulatory Flexibility Act

The RFA 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.

For purposes of assessing the impacts of this rule on small entities, a small entity is defined as: (1) A small business with fewer than 1,000 employees, consistent with the definition for business based on SBA size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

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. This proposed rule will not impose any new requirements on small entities. This rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of EPA's compliance with the Regulatory Flexibility Act.

### D. Unfunded Mandates Reform Act

This rule contains no federal mandates for state, local, or tribal

governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the rule would significantly or uniquely affect small governments. EPA has determined that this rule contains no federal mandates that may result in expenditures of more than \$100 million to the private sector in any single year. This rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. The requirements of UMRA therefore do not apply to this action. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of UMRA policy.

### E. Executive Order 13132: Federalism

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. Although Section 6 of Executive Order 13132 did not apply to the original recreational marine diesel rule (67 FR 68242, November 8, 2002), EPA did consult with representatives of various State and local governments in developing that rule. EPA has also consulted representatives from STAPPA/ALAPCO, which represents state and local air pollution officials. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 13132.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule does not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances

specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this rule. This rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. Thus, Executive Order 13175 does not apply to this rule. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 13175.

### G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule is not subject to the Executive Order because it is not economically significant, and does not involve decisions on environmental health or safety risks that may disproportionately affect children. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of Executive Order 13045.

### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This rule merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations.

### I. National Technology Transfer and Advancement Act

This rule does not involve technical standards. It merely restores previously adopted regulatory text that was inadvertently supplanted by a subsequent rule and corrects several typographical errors that do not affect the substance of the regulations. Thus, we have determined that the requirements of the NTTAA do not apply. See the direct final rule EPA has published in the "Rules and Regulations" section of today's **Federal Register** for a more extensive discussion of NTTAA policy.

*J. Statutory Authority*

The statutory authority for this action comes from sections 114, 213, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7547, and 7601(a)). This action is a rulemaking subject to the provisions of Clean Air Act section 307(d). *See* 42 U.S.C. 7606(d)(1).

**List of Subjects in 40 CFR Part 94**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

Dated: September 12, 2003.

**Marianne Lamont Horinko,**

*Acting Administrator.*

[FR Doc. 03-23849 Filed 9-18-03; 8:45 am]

**BILLING CODE 6560-50-P**



# Federal Register

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**Friday,  
September 19, 2003**

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## **Part IV**

### **The President**

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**Presidential Determination No. 2003–34 of  
September 9, 2003—Presidential  
Determination on Certification to Permit  
U.S. Contributions to the International  
Fund for Ireland with Fiscal Year 2002  
and 2003 ESF Funds**

**Memorandum of September 12, 2003—  
Delegation of Functions Related to Loan  
Guarantees to Israel**

**Presidential Determination No. 2003–37 of  
September 14, 2003—U.S. Contribution to  
the Korean Peninsula Energy  
Development Organization**

**Presidential Determination No. 2003–38 of  
September 15, 2003—Presidential  
Determination on Major Drug Transit or  
Major Illicit Drug Producing Countries for  
2004**

**Proclamation 7705—Citizenship Day and  
Constitution Week, 2003**





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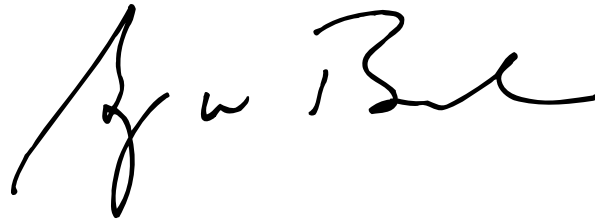
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Title 3—

**Presidential Determination No. 2003-34 of September 9, 2003****The President****Presidential Determination on Certification to Permit U.S. Contributions to the International Fund for Ireland with Fiscal Year 2002 and 2003 ESF Funds****Memorandum for the Secretary of State**

Consistent with section 5(c) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415), as amended by section 2811 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (as contained in Public Law 105-277), I hereby certify that I am satisfied that: (1) the Board of the International Fund for Ireland, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and (2) disbursements from the International Fund for Ireland (a) will be distributed to individuals and entities whose practices are consistent with principles of economic justice; and (b) will address the needs of both communities in Northern Ireland and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment.

You are authorized and directed to transmit this certification, together with the memorandum of justification prepared by my Administration, to the Congress and to publish this certification in the **Federal Register**.



THE WHITE HOUSE,  
*Washington, September 9, 2003.*

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## Presidential Documents

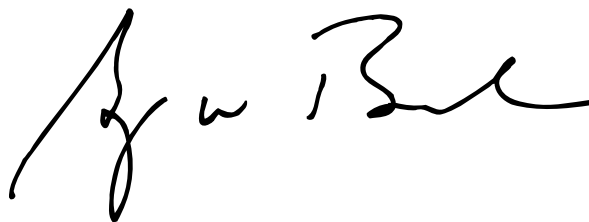
**Memorandum of September 12, 2003**

### **Delegation of Functions Related to Loan Guarantees to Israel**

#### **Memorandum for the Secretary of State**

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions conferred upon the President under the heading "Loan Guarantees to Israel" in chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11).

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

A handwritten signature in black ink, appearing to read "G. W. Bush". The signature is fluid and cursive, with a large initial "G" and a distinct "W" and "B".

THE WHITE HOUSE,  
*Washington, September 12, 2003.*

## Presidential Documents

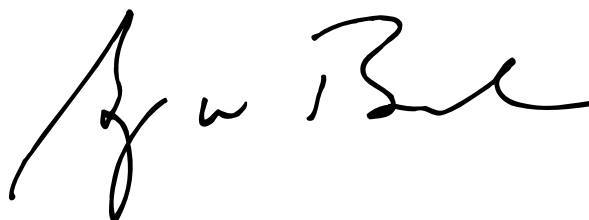
Presidential Determination No. 2003-37 of September 14, 2003

**U.S. Contribution to the Korean Peninsula Energy Development Organization: Determination Regarding Funds Under the Heading “Nonproliferation, Anti-Terrorism, Demining and Related Programs” in Title II of the Foreign Operations, Export Financing and Related Programs Appropriations, 2003, Division E of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7) (the “Act”)**

### Memorandum for the Secretary of State

Consistent with the authority vested in me by section 562 of Division E of the Act, I hereby determine that it is vital to the national security interests of the United States to waive the restriction in that section and provide up to \$3.72 million in funds made available under the heading “Nonproliferation, Anti-Terrorism, Demining and Related Programs” in title II of Division E of the Act, for assistance to the Korean Peninsula Energy Development Organization (KEDO) for administrative expenses only.

You are hereby authorized and directed to report this determination and the accompanying Memorandum of Justification, prepared by my Administration, to the Congress and to arrange for publication of this determination in the **Federal Register**.



THE WHITE HOUSE,  
*Washington, September 14, 2003.*

## Presidential Documents

### Presidential Determination No. 2003-38 of September 15, 2003

### Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for 2004

#### Memorandum for the Secretary of State

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

The Majors List applies by its terms to "countries". The United States Government interprets the term broadly to include entities that exercise autonomy over actions or omissions that could lead to a decision to place them on the list and, subsequently, to determine their eligibility for certification. A country's presence on the Majors List is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States.

Consistent with the statutory definition of a major drug-transit or drug-producing country set forth in section 481(e)(5) of the Foreign Assistance Act of 1961, as amended (the "FAA"), one of the reasons that major drug-transit or drug producing countries are placed on the list is the combination of geographical, commercial, and economic factors that allow drugs to transit or be produced despite the concerned government's most assiduous enforcement measures. Consistent with section 706(2)(A) of the FRAA, I hereby designate Burma and Haiti as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Attached to this report are justifications (statements of explanation) for each of the countries so designated, as required by section 706(2)(B).

I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that provision of U.S. assistance to Haiti in FY 2004 is vital to the national interests of the United States.

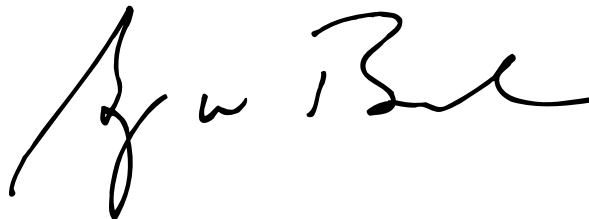
Combating the threat of synthetic drugs remains a priority, particularly the threat from club drugs, including MDMA (Ecstasy). Since January, we have redoubled our efforts with The Netherlands, from which the majority of U.S. MDMA seizures originate. I commend the Government of The Netherlands for its efforts to address this scourge, including increased enforcement, improved risk assessment and targeting capabilities of passenger aircraft and cargo, and international cooperation to control precursor chemicals. I urge the Government of The Netherlands to focus its efforts on dismantling the significant criminal organizations responsible for this illicit trade, using all tools available to law enforcement. Continued progress in implementing our joint action plan, developed in March, should have a significant impact on the production and transit of MDMA from The Netherlands to the United States. Although we have seen a stabilization of MDMA use rates domestically, there is an increase in the number of countries in which MDMA is produced and trafficked. We will continue to monitor the threat from synthetic drugs and the emerging trends.

The United States and Canada are both targeted by international trafficking organizations. We continue to work closely with the Government of Canada to stem the flow of illicit drugs to our countries and across our common borders. The United States remains concerned about the diversion of large quantities of precursor chemicals from Canada into the United States for use in producing methamphetamines. We hope that Canada's newly implemented control regulations will disrupt that flow. The United States is also concerned about widespread Canadian cultivation of high-potency marijuana, significant amounts of which are smuggled into the United States from Canada. We will work with the Government of Canada in the coming year to combat these shared threats to the security and health of our citizens.

In the 8 months since my January determination that Guatemala had failed demonstrably in regard to its counternarcotics responsibilities, the Government of Guatemala has made efforts to improve its institutional capabilities, adhere to its obligations under international counternarcotics agreements, and take measures set forth in U.S. law. These initial steps show Guatemala's willingness to better its counternarcotics practices, but the permanence of these improvements has yet to be demonstrated. I expect Guatemala to continue its efforts and to demonstrate further progress in the coming year.

We are deeply concerned about heroin and methamphetamine linked to North Korea being trafficked to East Asian countries, and are increasingly convinced that state agents and enterprises in the DPRK are involved in the narcotics trade. While we suspect opium poppy is cultivated in the DPRK, reliable information confirming the extent of opium production is currently lacking. There are also clear indications that North Koreans traffic in, and probably manufacture, methamphetamine. In recent years, authorities in the region have routinely seized shipments of methamphetamine and/or heroin that had been transferred to traffickers' ships from North Korean vessels. The April 2003 seizure of 125 kilograms of heroin smuggled to Australia aboard the North Korean-owned vessel "Pong Su" is the latest and largest seizure of heroin pointing to North Korean complicity in the drug trade. Although there is no evidence that narcotics originating in or transiting North Korea reach the United States, the United States is intensifying its effort to stop North Korean involvement in illicit narcotics production and trafficking and to enhance law-enforcement cooperation with affected countries in the region to achieve that objective.

You are hereby authorized and directed to submit this report under section 706 of the FRAA, transmit it to the Congress, and publish it in the **Federal Register**.



THE WHITE HOUSE,  
*Washington, September 15, 2003.*

**Statement of Explanation****Burma**

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

Burma remains among the world's largest producers and traffickers of amphetamine-type stimulants (ATS), and the world's second largest producer of illicit opium. Although precise figures are hard to come by, production and trafficking of methamphetamine from Burma continues to be one of the most serious problems facing Southeast Asia. Neighboring countries seized tens of millions of ATS tablets produced in Burma with precursor chemicals imported from other countries, and the explosion of synthetic drugs remained a major threat to national security and public health throughout the region.

The Government of Burma did little to hinder activities of drug gangs that operate freely along its borders with China, Thailand and Laos. Burma also failed to restrict involvement in illicit narcotics by the largest, most powerful, and most important trafficking organization in Burma, the United Wa State Army (UWSA). Major UWSA traffickers continue to operate with apparent impunity in areas outside government control, and UWSA involvement in methamphetamine production and trafficking remains a serious concern.

Implementation of money laundering legislation, enacted in 2002, faltered in 2003. Despite opening a few cases, the Government of Burma has undertaken no prosecutions, and a February banking crisis appeared to have halted further efforts to implement the law. Burma continued to permit UWSA and other trafficking organizations to own commercial banks and invest in other economic activities.

While the magnitude of the above issues resulted in a determination not to certify, Burma's counternarcotics performance over the past 12 months registered some positive aspects. Although Burma remains the world's second largest producer of illicit opium, opium cultivation declined a further 24 percent, according to the U.N. Office of Drugs and Crime. While the return of good weather brought much higher yields, overall production still declined for the sixth consecutive year.

The Government of Burma cooperated with regional and international counternarcotics agencies and organizations, resulting in several cases against traffickers and their organizations in cooperation with the United States, Australia, Thailand, China, and others. Burma also signed agreements in 2003 with China and India on the control of precursor chemicals.

We urge the Government of Burma to address those areas where its efforts have fallen far short, and to treat its counternarcotics obligations with the utmost seriousness.

**Statement of Explanation****Haiti**

The United States has determined that Haiti has failed demonstrably to make sufficient efforts during the last 12 months on counternarcotics issues, including its obligations under international counternarcotics agreements and counternarcotics requirements set forth in section 489(a)(1) of the Foreign Assistance Act of 1961 (as amended). Haiti remains a transshipment point for drugs moving towards the United States, and the Government of Haiti (GOH) has done little to cooperate with the United States to interdict the flow of drugs destined for the United States or to honor its commitments as a party to the 1988 U.N. Drug Convention.

With the notable and praiseworthy exceptions of expelling notorious drug trafficker Jacques Ketant, establishing a trusted unit of anti-drug agents, and increasing the number of anti-drug police including coast guardsmen, the GOH has not met all of the objectives or obtained the results laid out by the United States Government in its demarche to the GOH this past year.

The GOH did not: 1) deposit an instrument of ratification of the OAS anti-corruption convention; 2) draft and introduce anti-corruption legislation; 3) enforce existing anti-money-laundering legislation; 4) increase budgetary support for the Haitian Coast Guard; 5) ensure that asset forfeiture is an integral part of criminal prosecutions; 6) provide comprehensive training to judges, prosecutors and law enforcement personnel; 7) waive the right to exercise prosecutorial jurisdiction in cases of non-Haitian vessels interdicted by U.S. Coast Guard, and authorize enforcement of U.S. law against the vessels, cargo and persons on board; or 8) ratify the 1971 U.N. Convention on Psychotropic Substances.

While Haiti has demonstrably failed, according to the President's standards for counternarcotics performance, the U.S. vital national interests require that U.S. assistance to Haiti continue. As the hemisphere's poorest country, Haiti has a continued need for assistance to programs that increase access to education, combat environmental degradation, fight the spread of HIV/AIDS, reduce trafficking of women and children, and foster the creation of legitimate business and employment opportunities. In the long term, these programs can contribute to democratic development in Haiti and a reduction in illegal migration. Continuing these types of programs will also address the root causes of poverty and hopelessness, factors that contribute to Haitian involvement in the international drug trade. Suspension of assistance to Haiti could hamper U.S. efforts to ensure implementation of OAS Resolution 822, which commits the Government of Haiti to a series of actions that would promote a climate of security and confidence for free and fair legislative elections to be held in 2003.

[FR Doc. 03-24111

Filed 9-18-03; 8:45 am]

Billing code 4710-10-P

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## Presidential Documents

Proclamation 7705 of September 16, 2003

### Citizenship Day and Constitution Week, 2003

By the President of the United States of America

#### A Proclamation

In the summer of 1787, representatives from the States met in Philadelphia to establish a new Constitution that would unite America. They intended the Constitution to achieve six purposes: “to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.” Their work was successful and enduring. For more than two centuries, the American people have honored the foresight and wisdom of the Framers by respecting and defending our Constitution.

Our Constitution and our country have grown stronger over the last 216 years—through wars, searing internal conflicts, and great social, economic, and technological change. In the last 2 years, America has again been tested, this time by terrorist attacks designed to strike at our people, our institutions, and our constitutional government. In the wake of those attacks, we have renewed and strengthened our commitment to a more perfect Union and common defense, to justice and domestic tranquility, to the general welfare and the blessings of liberty.

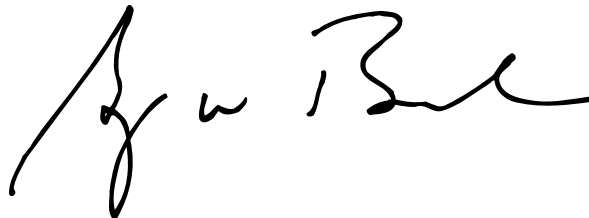
On Citizenship Day and during Constitution Week, we remember those who have fought and those who have died to preserve, protect, and defend the Constitution. We recall and reiterate the vow of President Abraham Lincoln that these “dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.”

In remembrance of the signing of the Constitution and in recognition of the Americans who strive to uphold the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106, as amended), designated September 17 as “Citizenship Day,” and by joint resolution of August 2, 1956 (36 U.S.C. 108, as amended), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as “Constitution Week.”

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim September 17, 2003, as Citizenship Day, and September 17 through September 23, 2003, as Constitution Week. I encourage Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs to celebrate our Constitution and reaffirm our commitment as citizens to this great Nation.



IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-eighth.

A handwritten signature in black ink, appearing to read "G. W. Bush". The signature is fluid and cursive, with a large initial "G" and a distinct "W" and "B".

[FR Doc. 03-24159

Filed 9-18-03; 8:45 am]

Billing code 3195-01-P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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distributions; cross  
reference; comments due  
by 9-25-03; published 6-  
27-03 [FR 03-16230]

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**H.R. 2738/P.L. 108-77**

United States-Chile Free  
Trade Agreement  
Implementation Act (Sept. 3,  
2003; 117 Stat. 909)

**H.R. 2739/P.L. 108-78**

United States-Singapore Free  
Trade Agreement  
Implementation Act (Sept. 3,  
2003; 117 Stat. 948)

**S. 1435/P.L. 108-79**

Prison Rape Elimination Act of  
2003 (Sept. 4, 2003; 117 Stat.  
972)

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